

HIGH-SPEED RAIL AUTHORITY  
MONTHLY MEETING  
TRANSCRIPT OF PROCEEDINGS

FRESNO CITY COUNCIL CHAMBERS  
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Mr. Mark Mc Loughlin, Director of Environmental Services

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PROCEEDINGS

CHAIRPERSON RICHARD: Good morning, ladies and gentlemen. Good morning, everybody. We're going to resume now the meeting that we commenced yesterday. We recessed last night after the public comment period closed. And this is a continuation of that meeting.

We are going to be asking our staff to brief the Board on their review of issues that were raised in the public comment session yesterday. And then the Board will deliberate on both the adoption of the environmental documents and the adoption of and the question of the adoption of the project itself.

Before we do that, I see that we're graced this morning by the presence of Fresno's Mayor, the Honorable Ashley Swearengin. And thank you very much, Mayor, for providing these facilities to us today.

MAYOR SWEARENGIN: Welcome.

CHAIRPERSON RICHARD: Thank you so much.

With that, Mr. Morales, I don't know how you'd like to have the staff proceed this morning. But I'll ask you to turn -- before I do, I have an important announcement and everybody should thank the Mayor because, once again, parking meters are relaxed today. Whatever that means. And so --

(Applause)

1 CHAIRPERSON RICHARD: Thank you, Mayor, and the  
2 city of Fresno for helping to accommodate public  
3 participation in this. So nobody should have to run out  
4 and feed the parking meters. Yesterday, we had some of  
5 the Board members doing that. So I think we're good.

6 Mr. Morales.

7 CHIEF EXECUTIVE OFFICER MORALES: Thank you, Mr.  
8 Chairman.

9 Last night, after the conclusion of the comment  
10 period, I identified a number of the key themes that came  
11 out of the comments that we felt it was important to  
12 report back on to the Board this morning for discussion  
13 and deliberation. And we have those prepared for you and  
14 the Board can ask any additional questions it has on those  
15 issues. But we'll walk through the specific things that  
16 we identified last night and then turn to the Board for  
17 deliberations.

18 So we'll start with Diana on some of the specific  
19 impacts.

20 CENTRAL VALLEY REGIONAL DIRECTOR GOMEZ: Good  
21 morning, Chairman Richard, Board members.

22 So yesterday there was several issues that were  
23 brought up. I'm going to start -- before I go into the  
24 staff response to some of the issues, I want to talk about  
25 one issue that was raised was this appraisal process.

1 That individual's property is located within the Merced to  
2 Fresno section. I'm going to talk about our appraisal  
3 process before I go into some of the other details related  
4 to the Fresno to Bakersfield document.

5 So it was requested in terms of the appraisal  
6 process. We sent out notice of decisions to appraise. It  
7 also instructs the property owners that we'd like to meet  
8 with them to talk to them about their property, their  
9 operation. Exactly what happens specifically. In this  
10 case, it was a business. How the business operates. And  
11 then once that information is gathered, the appraiser goes  
12 off and puts together an appraisal. In some cases, when a  
13 property owner chooses not to meet with the appraiser,  
14 then the appraiser determines the method they're going to  
15 use to come up with that appraisal based on information  
16 they've been able to gather through city documents or  
17 other information that may be on record about that  
18 business.

19 At that time, once the appraisal is completed, it  
20 goes through a series of review processes within the  
21 Authority, within DGS. And once we get an approved  
22 appraisal, we then reach out to that property owner and  
23 let them know that we'd like to come out and provide them  
24 with a first written offer.

25 At that time, we provide to the property owner

1 the appraisal, the method that was used to come to that  
2 dollar amount, and answer any questions and also provide  
3 them with their rights. And one of those rights is that  
4 anybody can choose to have their own appraiser do another  
5 appraisal. And we pay for that up to a maximum of \$5,000.

6 Now, yesterday the gentleman mentioned, I don't  
7 want to get my own appraisal. I want you to fix your  
8 appraisal. That is part of the process, part of the  
9 negotiations process. So at that time, the property owner  
10 has the right to tell us you did not include this portion  
11 of the property. You did not include this piece of the  
12 operations.

13 And so then we take that into consideration. And  
14 we can then go back and revise the appraisal and then come  
15 back out. So it's at that time once we present the first  
16 written offer, that's wherein the negotiation starts.  
17 That's kind of a summary of the appraisal process.

18 CHIEF EXECUTIVE OFFICER MORALES: Let me just --  
19 Ms. Schenk had a question. But just to clarify. Our  
20 entire right-of-way process -- the entire process of  
21 identifying parcels and then going through the process of  
22 ultimately acquiring them is governed under federal and  
23 State laws that are the same laws and rules that apply to  
24 every other public agency. So we're not inventing a new  
25 process here. As part of the things Diana will talk about

1 are all steps that are common to the public acquisition  
2 process.

3 In addition, it's not just within the Authority's  
4 means. We have to go through the State Public Works Board  
5 as well as the State Department of General Services to get  
6 approvals for appraised values to be able to make offers  
7 and to go through the entire process. So just want to  
8 reinforce and make sure the Board understands that process  
9 is one that has been long established and we're following  
10 the same procedures.

11 CHAIRPERSON RICHARD: Commissioner.

12 BOARD MEMBER SCHENK: On the appraisal, where do  
13 we come up with the \$5,000 reimbursement? Having just  
14 gone through some appraisals myself, I think the gentleman  
15 was correct. It is a lot more than five. But is that --  
16 where did that number come from?

17 CENTRAL VALLEY REGIONAL DIRECTOR GOMEZ: That's a  
18 standard fee that is used. Other State agencies use that  
19 same fee or -- Tom, if you'd like to.

20 LEGAL COUNSEL FELLEENZ: It's a State law.

21 BOARD MEMBER SCHENK: By law.

22 CHIEF EXECUTIVE OFFICER MORALES: And as  
23 Ms. Gomez pointed out, throughout the process property  
24 owners retain their rights to not only receive the  
25 provision, but to take whatever course they feel is



1 necessary should they not agree with the value.

2 CHAIRPERSON RICHARD: Just one last thing on this  
3 before we move onto the comments on the CEQA documents  
4 itself. I appreciate Ms. Gomez talking about the  
5 appraisal process, because Mr. Hernandez raised that  
6 question yesterday. Recently, I had the occasion to  
7 question the staff about how we're doing on the land  
8 acquisition in Merced to Fresno area. One of the things I  
9 was very gratified to hear is at least so far less than  
10 ten percent of the interactions from land owners are even  
11 taking any step towards eminent domain. And if you look  
12 at a comparison with Caltrans, on average, 23 percent of  
13 the land they acquire when Caltrans does a road expansion  
14 is through the eminent domain process. Right now, we're  
15 running at about 90 percent land acquisition through  
16 bilateral agreements with land owners.

17 And so I think in terms of one marker of the  
18 sensitivity with which the staff has been proceeding in  
19 working with affected land owners, that's certainly gave  
20 me some comfort. We'd like that number to be 100 percent.  
21 But I think it shows that we're off to a pretty good  
22 start. So its to commend Mr. Morales and staff for the  
23 way they've been approaching this.

24 CENTRAL VALLEY REGIONAL DIRECTOR GOMEZ: Now we  
25 will talk about the issues that were raised yesterday. So

1 the team deliberated late into the -- actually, into the  
2 morning -- what someone told me it was morning following  
3 the Board meeting yesterday -- and to come up with some  
4 key issues -- to address some of the key issues that were  
5 raised. Several of the members of the team will be  
6 providing the findings, and I will start with those that  
7 dealt with specific impacts to properties.

8 So yesterday, property owners raised specific  
9 questions on impacts to their property. And our team is  
10 prepared to provide an update.

11 For the past year and a half, we have met with  
12 owners along both alignments, where there was a preferred  
13 alignment or not the preferred alignment. And we will  
14 continue to meet with those property owners. We met with  
15 them at our request and in some cases their request. So  
16 we will continue to meet with them to address their  
17 request.

18 The first one is the Machado dairy. And when we  
19 had met with Kings County -- and Chairman, you were there,  
20 they had asked about the dairies and the impacts of the  
21 dairies. And then we did actually analyze all of the  
22 dairy impacts. So dairy impacts have been extensively  
23 studied through impacts that impact the agriculture as  
24 well as the economic impacts to the dairy industry.

25 In most instances, dairy impacts to the dairy

1 operations may be limited to effluent fields and  
2 supporting irrigation facilities. In some cases, the  
3 county had mentioned, well, you're not impacting the  
4 dairy, but you're impacting their effluent ponds which may  
5 be two miles away.

6 What we will be allowing is -- and this is one of  
7 the questions that kept coming up is what will be allowed  
8 under our right-of-way. We will be installing irrigation  
9 utility crosses below our right-of-way. And so the  
10 transmission of dairy effluence may be perpetrated to  
11 several parcel remnants. This is one of the mitigation  
12 measures we will be offering. This will significantly  
13 reduce the loss of effluent field acreages. So in this  
14 case of that dairy, we are impacting their effluent field.

15 As far as permitting was concerned, because this  
16 was another issue that was raised at the Kings County  
17 meeting, the Authority will work individually with each  
18 impacted dairy to help them acquire new or revised permits  
19 related to their operations. This practice is described  
20 in the agricultural session project of the design  
21 features.

22 The other one, Bakers Commodity, was not here,  
23 but a person brought up the issue of the Bakers Commodity.  
24 We have met with the management of Bakers Commodity in the  
25 plant in Hanford on several occasions. We actually went

1 with them two weeks ago to discuss our response to their  
2 comments. And we discussed the potential project impacts  
3 and methods to mitigate those impacts. Bakers Commodities  
4 has agreed that the Authority can reconfigure facilities  
5 on their property so that the project will not impact  
6 their operation and the plant can remain in operation at  
7 its existing location.

8 The other was the Cooper Brothers Farming  
9 operation east of Corcoran. Their comment was  
10 overcrossing the Avenue 144 and State Route 43 will create  
11 substantial impacts to their farming operation. The  
12 overcrossings referred are associated with the BNSF  
13 alignment, which is not a preferred alignment. The  
14 recommended alternative is the Corcoran bypass which does  
15 require these overcrossings. As a result, our project  
16 will only require an 80-foot to 100-foot strip through  
17 their property.

18 Further, because the alignment will be elevated  
19 through part of their property, they will be able to  
20 access both sides of the alignment under the viaduct. We  
21 have met with the Coopers and explained that overcrossing  
22 would not be required with the preferred alignment.

23 The other comment was about Avenue 144, which is  
24 the main commute route to Corcoran State Prison and that  
25 closing 144 would impact traffic in that area. We will

1 not be closing Avenue 144 because our facility will be on  
2 a viaduct. So it is not going to be closed as part of the  
3 Corcoran bypass.

4 The other was Hanson Farms. Why are there three  
5 overcrossings in three miles? In our response, in the  
6 initial design phase, the number of overcrossings is  
7 determined by traffic volumes on individual roads. As a  
8 project progresses through the final design phase, local  
9 jurisdictions may allow for the omission of overcrossings  
10 that they believe are unnecessary. His other comment was  
11 are current land values accurately reflected in the  
12 project budget. The cost of mitigation and property  
13 acquisition is included in the cost estimate for the  
14 Fresno to Bakersfield section. It is summarized in  
15 chapter five of the document. All cost estimates are  
16 developed in a 2010 base year book dollars and then  
17 escalated per the actual and projected escalation rates  
18 provided by KPNG, a U.S. audit tax and advisory services.  
19 The cost estimate for Fresno to Bakersfield section is  
20 consistent with this methodology.

21 The other was PFF Farms, which is Hormel. Avenue  
22 120 overcrossing significantly impacts Hormel's effluent  
23 disposal field. That was their comment. We have met with  
24 Hormel Foods three times over the last year, and we  
25 understand the issues described by the operations manager.

1 We have also met with Tulare County to discuss options for  
2 modifying the plant overcrossing to minimize economic harm  
3 to this business related to their displaced disposal area.  
4 Option to modify the plant overcrossing can be done within  
5 the environmental footprint evaluated in the document.

6 The county is supportive of these efforts, and we  
7 will continue to work with Hormel and Tulare County. Any  
8 loss of disposal area will be compensated at fair market  
9 value.

10 Their other comment was that our main line  
11 impacts their feed meal located adjacent to the BNSF  
12 tracks south of Avenue 110. The alignment does result in  
13 a total take of that subject facility. As indicated in  
14 volume four responses to comment, we will work with Hormel  
15 to ensure the owner receives just compensation for project  
16 damage. Furthermore, Authority staff has committed to  
17 assist them in finding the site for relocation of the  
18 mill. The Authority has established a track record here  
19 in Fresno County with successfully assisting business  
20 relocations. We believe we can continue these efforts as  
21 the project moves south into Kings County, Tulare, and  
22 Kern County.

23 The final one is the Kit Carson School District.  
24 The relocations within the Kit Carson Elementary School  
25 District will result in the potential loss of an estimated

1 nine students out of 448 enrolled. The school is outside  
2 the one-half mile study area for schools and is not within  
3 the area subject to impacts with our proposed project.

4 We did meet with the school district on March 9th  
5 in 2011 and soon thereafter hosted a public information  
6 meeting located on the Kit Carson campus in May of 2011.  
7 That drew nearly 100 individuals. In addition, Kit Carson  
8 has been notified and provided copies of the materials  
9 upon release of the draft document, the revised draft  
10 document and the final document.

11 Those are the individual impacts to property  
12 owners. Now we're going to turn it over to Mark who will  
13 address some of the technical issues.

14 CHAIRPERSON RICHARD: Before you do, I'll just  
15 ask Board members if they have any questions of Ms. Gomez.

16 I just have to say that was an encouraging report  
17 I think in terms of context for some of those impacts.

18 But in any case, other Board members, questions?  
19 Vice Chair Richards.

20 VICE CHAIRPERSON RICHARDS: Thank you, Mr.  
21 Chairman.

22 Diana, I just wanted to clarify one thing. From  
23 the very outset as we've traveled through the southern  
24 part of the valley with regards specifically to the  
25 dairies and as Mr. Machado indicated yesterday, I think he

1 was on the first trip that I had along with the Fukudas.

2 One of the big issues that has always been stated  
3 is not only the impacts to their property, but the ability  
4 to have their businesses relicensed. So I think you  
5 mentioned that briefly if I heard that correctly a while  
6 ago. That was one of the real challenges. So even if  
7 we're dealing with their effluent concern that they had  
8 raised to us with regards to having air operations  
9 relicensed, did you address that or can you address that  
10 in your comments?

11 CHAIRPERSON RICHARD: Just to supplement that, my  
12 understanding is that that even if they have their  
13 effluent field, if they lose acreage, they may be limited  
14 under other regulations from having a number of head of  
15 cattle based on the land they have. I think that's what  
16 you're referring to.

17 VICE CHAIRPERSON RICHARDS: Well, I'm referring  
18 to what had been stated to us also. Is would it really  
19 shut their operations down? I think that's clearly what  
20 we're trying to avoid here.

21 CENTRAL VALLEY REGIONAL DIRECTOR GOMEZ: We have  
22 met with some of the regulatory agencies around the  
23 dairies to try to figure out how we can minimize those  
24 impacts. And so we feel confident that we will be able to  
25 do that. And working with those regulatory agencies and



1 ensuring that their permits are reissued or modified.

2 VICE CHAIRPERSON RICHARDS: Okay. And obviously  
3 you will stay in close contact with those dairy farmers  
4 who are being impacted.

5 CENTRAL VALLEY REGIONAL DIRECTOR GOMEZ: Right.  
6 Not only with the dairy. Anybody along the alignment now  
7 that you have the preferred alignment, we are more than  
8 happy to come out and meet with them and discuss the  
9 impacts and determine how we can minimize those.

10 VICE CHAIRPERSON RICHARDS: And especially those  
11 whose business is impacted by reducing productivity or  
12 eliminating any operations to the extent they can so they  
13 don't have licensing for some period of time.

14 CENTRAL VALLEY REGIONAL DIRECTOR GOMEZ: That's  
15 correct.

16 VICE CHAIRPERSON RICHARDS: Great. Thank you.

17 CHIEF EXECUTIVE OFFICER MORALES: Just a brief  
18 follow-up to that.

19 These kinds of operational impacts are very  
20 critical obviously looking at these. And I think we heard  
21 comments yesterday from particularly farmers in  
22 Wasco-Shafter about how we had worked together with them  
23 to address very much those kind of issues and how both  
24 alignment decisions and other issues were taken into  
25 account. It's not just about looking at physical impact

1 to the properties, the physical effects, but also the  
2 operational needs as they move forward. So that has been  
3 dealt with here, but is an ongoing part of the process as  
4 well.

5 VICE CHAIRPERSON RICHARDS: Thank you.

6 CHAIRPERSON RICHARD: Other questions? Okay.  
7 Thank you, Ms. Gomez.

8 Mr. McLoughlin, good morning.

9 DIRECTOR OF ENVIRONMENTAL SERVICES MC LOUGHLIN:  
10 Good morning, Mr. Chairman and Board members. Mark --

11 CHAIRPERSON RICHARD: Try to speak as closely to  
12 the microphone as possible.

13 DIRECTOR OF ENVIRONMENTAL SERVICES MC LOUGHLIN:  
14 Director of Environmental Services for the Authority.

15 I'm going to follow up Diana's topic with one  
16 topic, the Fresno Chinatown cultural resource questions  
17 yesterday. I also wanted to make sure the Board members  
18 were provided our staff response that was our summary of  
19 what we're providing you today. We also have that back in  
20 the outside foyer for the public to view also.

21 First off, the Fresno Chinatown section of the  
22 project is part of the original alignment and overlaps  
23 between the previously approved Merced-Fresno section of  
24 the project and the Fresno to Bakersfield section. Both  
25 of these documents look at the Fresno station and provide

1 context to continuity in the analysis. For cultural  
2 resources, the Fresno-Bakersfield documents referred the  
3 reader to the Merced-Fresno analysis. We also structured  
4 its compliance with Section 106 with the National Historic  
5 Preservation Act so it will be in compliance to the  
6 section where impacts will occur. In this case, the  
7 Merced to Fresno section, not in the Fresno to Bakersfield  
8 section where the impacts information is provided for  
9 context and that continuity.

10 For the Merced to Fresno Section 106 process, we  
11 have reached out to communicate with the Chinatown  
12 revitalization organization during the process and invited  
13 its organization to be part of our memorandum of agreement  
14 for the Merced-Fresno section. Until this date, we have  
15 not got a response from this organization. For the Merced  
16 to Fresno Section 106 process, the Authority has continued  
17 to keep the Chinatown revitalization organization informed  
18 regardless and will continue to work with them through the  
19 process.

20 So those conclude my comments on the Chinatown  
21 section.

22 CHAIRPERSON RICHARD: Questions on that?

23 Ms. Perez-Estolano.

24 BOARD MEMBER PEREZ-ESTOLANO: Mark, in terms of  
25 reaching out to the group that was represented yesterday,

1 we're referring to the same group, the young man who came  
2 in and said, you know, we're available, but we haven't had  
3 any contact with the Authority; is that correct?

4 DIRECTOR OF ENVIRONMENTAL SERVICES MC LOUGHLIN:  
5 I'm not sure that's correct. Maybe Diana could comment on  
6 that. She's been in personal meetings with them.

7 CHAIRPERSON RICHARD: I think it's Mr. Brown's  
8 team.

9 BOARD MEMBER PEREZ-ESTOLANO: I just wrote his  
10 comments down. I didn't write his name down. Is that the  
11 same person?

12 CENTRAL VALLEY REGIONAL DIRECTOR GOMEZ: It was  
13 the same person. But we have met with him more than once.  
14 And we did participate in a forum that they put together,  
15 a panel. And several of us participated in that effort.

16 We've also met with them regarding Chinatown and,  
17 you know, what it means to them. And so we have been  
18 keeping them informed of what we've been doing in  
19 Chinatown and providing them the opportunity to comment on  
20 every step before we started the archeological digs. So  
21 we did give them the opportunity.

22 BOARD MEMBER PEREZ-ESTOLANO: So there is just a  
23 misunderstanding or something between his experience and  
24 what our efforts have been?

25 CENTRAL VALLEY REGIONAL DIRECTOR GOMEZ: If you

1 want to call it a misunderstanding. But I'm not sure if  
2 he understands that that section was covered under the  
3 Merced to Fresno environmental document.

4 BOARD MEMBER PEREZ-ESTOLANO: Because it is  
5 important. And the Chinatown history here in Fresno is  
6 critically important to the work that we do. And  
7 obviously, it is the -- I think, for me, one of the most  
8 important parts of the early work we've been doing on  
9 this.

10 CENTRAL VALLEY REGIONAL DIRECTOR GOMEZ: The city  
11 of Fresno has also participated in every one of those  
12 meetings as well. The city has been there and provided  
13 their concerns and their input, and we feel we've been  
14 addressing them adequately.

15 BOARD MEMBER PEREZ-ESTOLANO: Thank you.

16 DIRECTOR OF ENVIRONMENTAL SERVICES MC LOUGHLIN:  
17 Thank you. I'd like to introduce Andrew Bane of the  
18 Program Management Team from a technical perspective. I  
19 want to let the Board members know we have technical  
20 expertise for any questions you may have that we may not  
21 be able to answer. So Andrew.

22 PROGRAM MANAGEMENT TEAM ENVIRONMENTAL MANAGER  
23 BANE: Thank you, Mark.

24 Good morning, Chairman Richard, Board members.  
25 I'm Andrew Bane with the Program Management Team,

1 Environmental Manager. I will be discussing two topics  
2 today that were brought up in yesterday's meeting.

3 The first is environmental justice. A person  
4 testified that there were new significant impacts  
5 identified in the Chapter 6 of the Environmental Impact  
6 Report, Environmental Impact Statement. This is correct.  
7 New text was provided in Chapter 6, but no new significant  
8 impacts were identified. Chapter 6 is the significant and  
9 unavoidable impacts caused by the project. The Federal  
10 Railroad Administration is responsible for evaluating the  
11 project for environmental justice concerns. And between  
12 the revised draft and the final in response to comments on  
13 the environmental justice section, it was reorganized in  
14 Chapter 3 in order to more clearly define what  
15 environmental justice communities are receiving the  
16 significant impacts.

17 As a result of that, reorganization to clarify  
18 the impacts, the conclusions were brought from Chapter 3  
19 into Chapter 6. So while, yes, it's new text, there are  
20 not new impacts. The impacts in the mitigation for those  
21 impacts are identified in Chapter 3. So really, Chapter 6  
22 is just a modification to the text to reflect the  
23 clarification in chapter three. I hope that's clear.  
24 It's kind of confusing sometimes.

25 Also related to environmental justice, a concern

1 was brought up about Census data and how it was used. The  
2 2000 Census data was used to draw a base line for  
3 environmental justice communities. A half-mile buffer was  
4 drawn from the alignment and station areas and the 2000  
5 Census data were used to identify what we thought were  
6 environmental justice communities. Given that the project  
7 started in 2009 before the 2010 data were available, those  
8 maps were sent to the local experts along the alignment  
9 and near the stations. And we asked them to tell us are  
10 these environmental justice communities -- can you give us  
11 input on what environmental justice communities were not  
12 included or we're missing? That information was provided  
13 back. Our maps were revised in order to identify those  
14 environmental justice communities so that we could compare  
15 the impacts on those communities against the impacts on  
16 the referenced communities.

17 So it was slightly incorrect that we did not  
18 apply or that it was a misunderstanding about how we  
19 applied the 2000 data in defining the environmental  
20 justice communities.

21 One other point of clarification about the Census  
22 data that you should understand between the revised draft  
23 and the final, Census data was not used for the evaluation  
24 of noise impacts and displacements. Those were conducted  
25 on a parcel by parcel basis. So where we have actual

1 physical impacts, we have a project level evaluation of  
2 those impacts.

3 Are there any questions about socioeconomics,  
4 environmental justice? Yes, Mr. Frank.

5 BOARD MEMBER FRANK: I appreciate your comments  
6 and I was concerned about some of the testimony that we  
7 received yesterday.

8 I believe environmental justice is an enormously  
9 important concern as we go forward with this project. And  
10 obviously those problems have been endemic here in the  
11 valley for many years before we got here. And I'm  
12 satisfied based on the analysis and the document and  
13 elsewhere that hopefully as a result of this high speed  
14 rail project that we will be part of the solution to that  
15 long-term problem not exacerbating. I don't think that's  
16 the case.

17 I want to commend staff for their sensitivity to  
18 that issue and what they're doing. Prospectively, you  
19 mentioned Census tracts. That reminded me one of the  
20 sister agencies, the California Environmental Protection  
21 Agency, has done some pioneering work here in terms of  
22 looking at environmental justice inequities and  
23 communities. And their product, Cal Enviroscreen, has  
24 just come up with a modification to really refine the data  
25 which had previously been done throughout the state by ZIP



1 codes and reduced to Census tracts. And while it's still  
2 in draft form, that revised version I think is a very  
3 important tool that we and other State agencies can and  
4 should use to identify the communities that are most  
5 sensitive both here in the Sacramento Valley and  
6 elsewhere.

7 CHAIRPERSON RICHARD: Ms. Perez-Estolano.

8 BOARD MEMBER PEREZ-ESTOLANO: Good morning. I'm  
9 kind of confused. So the project was initiated in 2009.  
10 So that's why 2000 Census data was used initially?

11 PROGRAM MANAGEMENT TEAM ENVIRONMENTAL MANAGER  
12 BANE: As a base line.

13 BOARD MEMBER PEREZ-ESTOLANO: Correct. But now  
14 that the project has advanced. And was there an  
15 opportunity to update the data with the 2010 Census?

16 PROGRAM MANAGEMENT TEAM ENVIRONMENTAL MANAGER  
17 BANE: The data was updated.

18 BOARD MEMBER PEREZ-ESTOLANO: Was updated.

19 PROGRAM MANAGEMENT TEAM ENVIRONMENTAL MANAGER  
20 BANE: As it became available, data from the California  
21 Employment Development Department, the Department of  
22 Finance, and the American Communities Survey single year  
23 estimates were applied to project what the Census data  
24 would be. And when we looked at recently published  
25 demographic and economic reports, it corroborates the

1 projections that were used for the analysis of impacts.

2 BOARD MEMBER PEREZ-ESTOLANO: The communities  
3 that would have the greatest impact -- economic impact you  
4 would have seen it more clearly 2010 data after the  
5 recession?

6 PROGRAM MANAGEMENT TEAM ENVIRONMENTAL MANAGER  
7 BANE: Right. And then also it was direct communication  
8 with the experts in the local areas so that the numbers  
9 were backed up by people that are in the communities.

10 BOARD MEMBER PEREZ-ESTOLANO: I understand that  
11 the Census information kind of was rolling, that you got  
12 some numbers and then later you got other numbers so it  
13 staggered.

14 I would echo my colleague that we need to  
15 actually use the tools that are being developed by the  
16 State in terms of Enviroscreen.

17 It's also my understanding that there may be some  
18 interest in linking potential funding with red zones on  
19 the Enviroscreen that there is an interest to direct  
20 efforts to focus on those communities. So if that's a  
21 tool the State may be using, I suggest highly that we  
22 actually jump in front of that moving train. Because it  
23 is -- I think there is -- I know a bad joke. But it is  
24 something I think that the State is invested in  
25 leveraging. So I echo Mr. Frank.

1 CHAIRPERSON RICHARD: Thank you. Other  
2 questions? Okay.

3 PROGRAM MANAGEMENT TEAM ENVIRONMENTAL MANAGER  
4 BANE: Thank you.

5 CHAIRPERSON RICHARD: Mr. Bane, thank you.

6 ASSISTANT CHIEF COUNSEL ANDREW: He can't leave  
7 yet. Good morning, Chair Richard and Board members. And  
8 Jim Andrew, Assistant Chief Counsel for the Authority.

9 I want to talk about a couple items, but I need  
10 Andrew for one of them. One of the issues raised  
11 yesterday was about from the city of Bakersfield mentioned  
12 some 4F and 6F issues in the city of Bakersfield. Andrew  
13 is going to talk a little bit about the substance behind  
14 them, and I'll make a comment about the legal technicality  
15 of those issues Bakersfield raised.

16 CHAIRPERSON RICHARD: Mr. Andrew, I think we know  
17 what 4F and 6F refer to. But for the audience, you can  
18 take a second and make sure everybody understands what  
19 those are.

20 PROGRAM MANAGEMENT TEAM ENVIRONMENTAL MANAGER  
21 BANE: Section 4F is a federal regulation that is for the  
22 Department of Transportation Act that limited the federal  
23 transportation agencies from impacting parks, cultural  
24 resources, and wildlife refugees. So if there are  
25 alternatives that --

1 CHAIRPERSON RICHARD: Maybe some wildlife  
2 refugees out there. Mostly they like to stay in the  
3 refuges.

4 (Laughter)

5 PROGRAM MANAGEMENT TEAM ENVIRONMENTAL MANAGER  
6 BANE: So if there is a reasonable alternative that avoids  
7 impacting those three categories, then the transportation  
8 agency is compelled to select that alternative.

9 In Bakersfield, there are several section 4F  
10 properties. These are common to all three alignments in  
11 Bakersfield. And so there is no alternative to avoid  
12 them.

13 Bakersfield continues to say that we're having an  
14 impact on a 6F property. 6F refers to money that's given  
15 in a grant form to public agencies for developing parks.  
16 And the city of Bakersfield did receive section 4F grants,  
17 one in 1989 and another in 1990.

18 CHAIRPERSON RICHARD: 6F.

19 PROGRAM MANAGEMENT TEAM ENVIRONMENTAL MANAGER  
20 BANE: 6F grants in '89 and '90. They used these funds to  
21 build Yokuts Park, which is a small picnic area type park  
22 in the Kern River Parkway. It's distinct. It has an area  
23 boundary to it. It was improved and it's maintained.  
24 This park facility is about 1200 feet from the closest  
25 alignment. We do not impact that park. The city has not

1 provided us with any evidence that it has any other  
2 section 6F park in that area.

3 CHAIRPERSON RICHARD: Okay.

4 ASSISTANT CHIEF COUNSEL ANDREW: I did want to  
5 open with this issue because of course it's important, but  
6 these are federal issues that are not actually legally  
7 technically relevant to the CEQA adequacy before you  
8 today. They are federal laws that govern the FRA's  
9 approval of the EIS and the record decision they will be  
10 making sometime in the near future. We have dealt with  
11 them, as Mr. Bane talked about. But they are strictly  
12 federal issues and deal with the adequacy of their  
13 process, not the CEQA process that we put before you here  
14 today.

15 So I want to talk about the remaining items and  
16 just to remind the Board and the public, we're talking  
17 largely from the staff response document. I believe all  
18 Board members have. Copies are on the back table for the  
19 public as well. I'm not sure if he mentioned that to be  
20 sure.

21 CHIEF EXECUTIVE OFFICER MORALES: It's posted  
22 online.

23 BOARD MEMBER PEREZ-ESTOLANO: It's on the  
24 website.

25 ASSISTANT CHIEF COUNSEL ANDREW: I'm not sure it

1 has hit yet. But it's in the process.

2           So I wanted to address four remaining issues.  
3 The first is the issue of valley fever that was raised  
4 yesterday in a few of the public comments. Valley fever  
5 is related to fugitive dust emissions. And the  
6 environmental document deals with fugitive dust and  
7 includes measures that are recommended by the California  
8 Department of Public Health to reduce fugitive dust. It's  
9 fugitive dust that leads to or can lead to valley fever.

10           So it's really a dust that is the issue. And the  
11 EIR addresses dust by having specific design features and  
12 mitigation measures to deal with reducing the amount of  
13 dust, and it comes in a couple different ways. We have  
14 suspended construction when wind speeds reach 25 miles an  
15 hour. Keeping construction areas watered to limit the  
16 fugitive dust. Washing trucks and equipment as they're  
17 leaving. Also mentioned that I think it came up yesterday  
18 that we have an air quality mitigation measure which we'll  
19 be entering into an agreement with the San Joaquin Valley  
20 Air Pollution Control District to offset the emissions  
21 from the project to a net zero level, and that includes  
22 fugitive dust that will be generated by earth moving.

23           So -- and the actual draft agreement for the  
24 first construction segment that we're working for now  
25 Construction Package 1A and 1B actually includes language

1 that says, "The district shall use reasonable efforts to  
2 prioritize owners and operations of pollution source  
3 equipment that will lead to these offsets located as close  
4 as possible geographically to the actual areas of the  
5 construction."

6 So if there is a diesel irrigation pump that's  
7 going to get replaced in a construction line that will be  
8 prioritized over diesel irrigation pump that's 30 miles  
9 away from the construction site. So there will be an  
10 offset of a fugitive dust through the VARA agreement and  
11 if there is prioritization do it in proximity to the  
12 actual construction.

13 We also are going to be recommending or are  
14 recommending inclusion of a few additional protection  
15 measures for construction workers. This again comes from  
16 the California Department of Public Health to add four  
17 additional measures. And we can go through that in more  
18 detail when we get to the project approval here in a few  
19 minutes. But we are recommending inclusion of four  
20 additional measures, and they're on page one of the staff  
21 response at the bottom of the first page.

22 There's also a construction health and safety  
23 plan required in our health and safety portion of the EIR  
24 Chapter 3.11, safety and security. And we'll be  
25 recommending revising the design feature to require the

1 four items mentioned there to focus on protection for  
2 workers who are actually going to be working on the  
3 project.

4 The next item I wanted to talk about is  
5 Bakersfield's suggestion or request that there be an  
6 inclusion in the Board's approval resolution -- and we'll  
7 get to that later -- approval resolution of the project  
8 specifying that the Authority will not approve any project  
9 south of 7th Standard Road without a 60-day written  
10 notification to the city of Bakersfield. And just wanted  
11 to point out that staff is supportive of that inclusion.  
12 We can go through how that would get included later.

13 The third item I wanted to mention is the issue  
14 raised yesterday about the Volume 6 of the EIR and the  
15 letters that were omitted from the final EIR was published  
16 on the website on April 18th.

17 Some background is that CEQA actually does not  
18 require release to the public of a issuance of the final  
19 EIR. What CEQA requires is a strict matter that comments  
20 are responded to in writing for the agency and the Board's  
21 information and purposes and that public agencies who  
22 issue -- who submit a comment letter receive a proposed  
23 response to their comment a minimum of ten days prior to  
24 the Board's certification of the EIR. That's the minimum  
25 CEQA requirement.



1           And that requirement was met by the publication  
2 of the final EIR on April 18th. And then there were about  
3 35 letters that were inadvertently not included in that  
4 publication on the 18th. Two of those letters were from  
5 public agencies, and those were sent out via overnight  
6 mail to those agencies the week of the 21st of April. I  
7 think they were sent out on the 24th to meet that ten-day  
8 requirement. Was a matter of CEQA requirement we are  
9 fully in compliance with everything that needed to be done  
10 in terms of the final EIR.

11           The details as to what happens is in your  
12 response document. It was just a clerical error in that  
13 they were -- when letters were received, a received stamp  
14 came in after the end of the comment period. Those were  
15 inadvertent -- even though they were postmarked within the  
16 comment period, those 35 letters that were received after  
17 the comment period, even though postmarked before. It was  
18 a line drawn inadvertently to put those on the late side  
19 of the line and they should have been on the on-time side  
20 of the line. That's why they got omitted from the  
21 April 18th notification of the EIR.

22           As soon as we discovered that issue, we corrected  
23 it by development of the Volume 6, which was completed on  
24 May 2nd. And the Board I think was sent an e-mail  
25 notifying of its availability and it was posted on the

1 website.

2 And the last item I wanted to talk about is some  
3 of the comment that came up yesterday about inadequate  
4 time to review the final EIR. And I think it goes back to  
5 what I said a moment ago, which is that there is no  
6 actual, strictly speaking, a legal obligation under CEQA  
7 for a public review comment period time on the final EIR  
8 is the comment period is the draft EIR stages. And then  
9 the staff's obligation to -- in writing is to round out  
10 the information in the final EIR for the Board's  
11 consideration and information so that the Board is  
12 adequately informed of the potential environmental  
13 consequences of the project, should the Board or the lead  
14 agency of the governing body decide to adopt the project.  
15 There is no review comment period time on the final EIR.  
16 As I mentioned, this is the obligation to issue the  
17 letters to public agencies ten days before. So the  
18 Authority by publishing and widely notifying the public of  
19 the availability of the document on April 18th and sending  
20 hard copies throughout the libraries and the Central  
21 Valley went above the requirement of CEQA.

22 CHAIRPERSON RICHARD: Okay. Questions or  
23 comments?

24 Ms. Selby.

25 BOARD MEMBER SELBY: Thank you. Thank you very

1 much for your in-depth analysis and explanation of what's  
2 going on. I was particularly --

3 CHAIRPERSON RICHARD: Sorry. Can people hear?

4 BOARD MEMBER SELBY: I was particularly concerned  
5 about the valley fever, having spent some time here and  
6 recognizing particularly children suffer from a lot of  
7 respiratory problems already here.

8 I just wondered -- I read a little bit about it  
9 and it seems that when you -- it gets worse when it gets  
10 wet, that the -- whatever it is in the dust, that when it  
11 gets wet, I don't know enough about this to know that if  
12 it's when it gets into the lungs is when it gets wet or  
13 when we wet it that the problem comes up. I wanted to ask  
14 you about that and just so I can do understand that a  
15 little bit better.

16 My second question on it has to do with it sounds  
17 like you're doing really good and careful work with the  
18 people who are working making sure that they're doing  
19 everything you can do to make sure they don't have this  
20 illness. And is there anything more just for the children  
21 who might be around the area that also we might be able to  
22 do?

23 ASSISTANT CHIEF COUNSEL ANDREW: On the issue of  
24 the wetness, I don't -- I'll look to my staff to see if  
25 they have any particular expertise on the issue.

1           My understanding of the cause is dust that's  
2 airborne. The purpose of wetting is to prevent it from  
3 even getting away. So it weighs it down so that it  
4 actually can't get into the air. So I think that's  
5 probably the answer on that issue. That's the whole  
6 purpose of wetting it down so it doesn't get airborne.  
7 That's the answer on that one.

8           As to the workers, we're adding some measures to  
9 make sure the workers are protected through this. As to  
10 non-workers through the implementation of this VARA  
11 agreement to make sure that there will be a complete net  
12 offset of zero of fugitive dust emissions -- not fugitive  
13 dust emissions, but particles that are airborne, be that  
14 through diesel particulate or fugitive dust, that will be  
15 fully offset to zero. So the change in condition between  
16 sitting here today and after the project is underway will  
17 be no change.

18           And that's something that we worked hard with the  
19 air district on to make sure we implement a net zero  
20 result for the air quality in the Central Valley to make  
21 sure that the high speed rail project will have  
22 significant air quality benefits when it's up and running.

23           But in the near term, while the construction is  
24 happening, the project is not adding any additional  
25 increment to the existing air in the Central Valley.

1 CHAIRPERSON RICHARD: Mr. Hartnett.

2 VICE CHAIRPERSON HARTNETT: Thank you. I have a  
3 few questions on the process -- CEQA process as compared  
4 to the process that is separate that we have utilized for  
5 Board meetings and public comments at Board meetings. I  
6 want to see if I understand the distinction correctly as  
7 it relates to opportunity for review and comment on the  
8 final EIR.

9 Did I understand you correctly to say that as to  
10 the actual final EIR, there is certain publications, time  
11 period required, for that before it is handed to us for  
12 decision, and there is certain response time in writing  
13 through public agencies that is required to the extent  
14 public agencies have submitted comments? So thus far am I  
15 correct on that?

16 ASSISTANT CHIEF COUNSEL ANDREW: Well, as to  
17 publication for the Board's consideration, there is no  
18 requirement for that under CEQA. The Open Meetings Act  
19 requires that the Board receive materials. And that when  
20 the Board receive materials, they're available to the  
21 public and that copies of materials that the Board is  
22 considering at a meeting be available to the public at the  
23 meeting. And that has happened here. You received the  
24 documents here and copy of the EIR has also been outside  
25 as well.

1 VICE CHAIRPERSON HARTNETT: So even the  
2 distribution of the CEQA documents, it's not a statutory  
3 requirement for that for purposes of our decision today?  
4 The distribution of it was made in accordance with the  
5 normal meeting procedures, but not as a CEQA requirement;  
6 is that correct?

7 ASSISTANT CHIEF COUNSEL ANDREW: That's correct.  
8 We went actually beyond the requirements of both CEQA and  
9 Bagley-Keene, the Open Meetings Act, in terms of what we  
10 did in terms of making it widely available and publishing  
11 it 17 days before we posted it.

12 VICE CHAIRPERSON HARTNETT: And so in terms of at  
13 least the stakeholder requirements, when people talk about  
14 the period of time within which to be able to review and  
15 respond as they wish to as to the final EIR documents that  
16 actually the CEQA doesn't require that there be public  
17 comment on those documents before they're certified. CEQA  
18 doesn't in and of itself. That the purpose of the  
19 documents at least from a CEQA framework is if we certify  
20 it, it provides us the sufficient information for us to  
21 make decisions that arise from the CEQA documents; is that  
22 correct?

23 ASSISTANT CHIEF COUNSEL ANDREW: That's correct.  
24 And there is no review and comment of public review and  
25 comment period time on the final EIR. It is for the

1 Board's consideration and information.

2 VICE CHAIRPERSON HARTNETT: And so we have met  
3 and exceeded -- we certainly have met the CEQA  
4 requirements in terms of the public involvement with  
5 respect to the final EIR. In terms of our -- the normal  
6 meeting requirements under State law unrelated to CEQA,  
7 we've met or exceeded the publication requirements of our  
8 agendas and information thus far; is that correct?

9 ASSISTANT CHIEF COUNSEL ANDREW: Yes. On both  
10 counts, yes.

11 VICE CHAIRPERSON HARTNETT: And in terms of  
12 people making public comment through our normal process,  
13 we had obviously quite a few people speak yesterday, many  
14 of whom have spoken to us before and who are quite  
15 familiar with our process of both speaking, that is making  
16 their points within the time allocated, often it's two  
17 minutes, but we had extra time of three minutes yesterday.  
18 And also there is a way for people to submit as it relates  
19 to our normal Board agendas information in writing in  
20 advance of the meeting or at the meeting itself. So we  
21 afforded people yesterday as much or more of what is  
22 required by the State process that we run our meetings by;  
23 is that correct?

24 ASSISTANT CHIEF COUNSEL ANDREW: That's correct.  
25 I also just note that in the days leading up to when we --

1 and the time leading up to the time when we recessed and  
2 closed public comment last night, early in this day and  
3 the days leading up to that the Authority received  
4 numerous written comments and letters from various  
5 stakeholders and others.

6 VICE CHAIRPERSON HARTNETT: And we had a number  
7 of attorneys speak yesterday as well on behalf of groups.  
8 And of course, we regularly receive letters from attorneys  
9 making the points that they wish to make, that they  
10 understand they may not be able to make in two or three  
11 minutes in an oral presentation and are always careful to  
12 give us letters. And some of the individual speakers were  
13 speaking on behalf of groups that were also represented by  
14 one or more attorneys who also spoke and/or submitted  
15 written comments as well.

16 So it seemed to me that there was a reasonable  
17 and fair opportunity for people to address the issues that  
18 they wanted to bring to our attention either verbally or  
19 in writing yesterday.

20 And I applaud the Chair who rather than limit  
21 public comment to what was published as two minutes with  
22 discretion to increase or decrease it, depending on the  
23 volume, that from the get-go you expanded the period to  
24 three minutes. So people who had read the agenda would  
25 have known that they had the opportunity initially within



1 two minutes to make their remarks, but they actually had  
2 more time than that. I appreciate that you did that, Mr.  
3 Chair.

4 CHAIRPERSON RICHARD: Thank you. Vice Chair  
5 Hartnett.

6 Other questions, comments on this point?

7 Just to underscore something that Vice Chair  
8 Hartnett was just saying, Mr. Morales used to run  
9 Caltrans. If Caltrans were doing a project and they had  
10 to certify environmental documents after the draft, would  
11 there have been any further public input into it?

12 CHIEF EXECUTIVE OFFICER MORALES: There's --  
13 consistent with what Jim Andrew said, there is no  
14 requirement in CEQA for that. And typically there would  
15 not be.

16 As was just discussed, the publication of the  
17 documents and taking public comments is a function of the  
18 governance of this Authority, the effect the Authority and  
19 the Board which has to comply with the Open Meeting Act,  
20 not with the requirements of CEQA. So other both for  
21 State and local agencies that are not governed by a Board,  
22 they are not required to publish the final or take public  
23 comment on, other than in responding to the public  
24 agencies.

25 CHAIRPERSON RICHARD: Okay. Other questions or

1 comments at this point?

2 Mr. Andrew, did you have other things to present  
3 to us?

4 ASSISTANT CHIEF COUNSEL ANDREW: I do not. I  
5 think we are moving onto the next agenda item. This was  
6 the staff response I think was the first agenda item for  
7 today. And I think the formal next agenda item is we move  
8 onto that and I can present that. I'll let you formally  
9 move us onto that new agenda.

10 CHAIRPERSON RICHARD: That would require me to  
11 have the agenda open and in front of me. So that's agenda  
12 Item 5.

13 And actually I think one thing that might be  
14 helpful to the public is if I could just take a moment and  
15 read a few sentences out of the briefing materials so that  
16 you can understand the context of what the Board is about  
17 to do.

18 Just it is important to note that the purpose of  
19 CEQA, which sometimes gets lost in all the procedural  
20 discussion, the purpose of CEQA is to ensure the public  
21 and government decision makers are informed and that the  
22 decision makers inform themselves through consideration of  
23 CEQA documents of the potential environmental consequences  
24 of a proposed governmental action.

25 In the case of the EIRs in particular, public

1 comment on the draft EIRs helps round out the information  
2 going to decision makers. The first step to the approval  
3 stage for the Board is to certify if it so chooses that  
4 the final EIR/EIS is adequate as an informational document  
5 for the Board about the environmental consequences of the  
6 project. So that will be the first consideration we have  
7 is to do the certification of the adequacy of the  
8 environmental documents.

9           The second and distinct step is for the Board to  
10 consider whether to approve the project in question in  
11 light of the environmental consequences disclosed in the  
12 certified document. This step also involves making  
13 written acknowledgements called findings about the  
14 environmental consequences that will flow from the  
15 approval and require mitigation to minimize those  
16 consequences.

17           In the case where you can't mitigate, then we  
18 would consider Findings and Statements of Overriding  
19 Considerations. The Findings Statement of Overriding  
20 Considerations and Mitigation Chart, called the Mitigation  
21 Monitoring Reporting Plan, are all included in the  
22 materials that the Board would consider.

23           So there will be two distinct steps. One is to  
24 consider a certification of the environmental documents as  
25 an adequate informational tool. And then the second would

1 be, in essence, to consider the approval of the project  
2 itself. So I thought that might be a useful guide for the  
3 public.

4 Let me look at counsel and just if I misstated  
5 that in any way, which I hope I didn't since I think I'm  
6 reading your words, please correct me at this point.

7 ASSISTANT CHIEF COUNSEL ANDREW: You only stole  
8 my thunder. But it was perfect.

9 CHAIRPERSON RICHARD: Okay.

10 ASSISTANT CHIEF COUNSEL ANDREW: So I would  
11 direct the Board's attention to Draft Resolution  
12 HSRA14-09, which should be in your Board materials and has  
13 been available on the website for a while. And copies  
14 have been available for the last couple of days out in the  
15 hallways.

16 And as the Chairman noted, this Resolution is  
17 required by CEQA. And I'll go through the -- technically  
18 the three components to it here in a moment for the  
19 Resolution. But in essence, it is the document by which  
20 the Board states that as an informational document, the  
21 final EIR is adequate to inform the Board of the potential  
22 consequences of a project, this project, if in the next  
23 vote you decide to approve one.

24 And it involves three steps. And you can see  
25 this on the bottom of the second page of the Resolution

1 and a continuation over to the third page of the  
2 Resolution. The first certification is that the document  
3 has been completed in compliance with CEQA. And the  
4 second is that the document that's before you -- and it is  
5 the final EIR that's here to my left or the Board's right  
6 which is the Volumes 1 through 6 of the final EIR and all  
7 the underlying supporting documentation. The second is  
8 that the final EIR that's before you has been presented to  
9 the Board members and reviewed by you and considered by  
10 you prior to the certification. And the third one is that  
11 the EIR reflects the Board's -- the Authority's  
12 independent judgment. I'll go through those in more  
13 detail.

14           The first one, distribution/certification of the  
15 EIR's compliance with CEQA. You may ask yourself how can  
16 I certify how do I do that? Is the document a perfect  
17 document in compliance with CEQA? And perfection is not  
18 the standard. There's a long history of case law. The  
19 goal is not perfection. It is a reasonable job to comply  
20 with the procedural reimbursement of CEQA and to evaluate  
21 as best as possible all the foreseeable impacts of a  
22 project that is being evaluated in the EIR. Perfection is  
23 not the standard. The standard is does it function as an  
24 informational document for decision-making purposes. And  
25 is it reasonable and feasible mitigation measures that

1 have been required.

2 And the staff's recommendation to you today is  
3 that the EIR does comply with CEQA.

4 On the second certification, the Board has been  
5 provided with the EIR that has been done in staff's  
6 opinion in terms of making a document available to the  
7 Board. It's here. As we stated in the materials that was  
8 provided to the Board obviously at various means,  
9 including notification on the website and sending paper  
10 copies of certain elements of the EIR and CDs containing  
11 all of the actual EIR documents.

12 And the third certification is required as far as  
13 regarding the independent judgment of the Authority. That  
14 the EIR -- it is not that you're not rubber stamping some  
15 consulted drafted document. Staff was involved intimately  
16 in the development of this document and does reflect the  
17 Authority's independent judgment. I think you've seen  
18 from the engagement of Ms. Gomez and Mr. McLoughlin that  
19 this Authority has been deeply involved in the development  
20 of this document.

21 And with that, I'll turn it back over to the  
22 Chair.

23 CHAIRPERSON RICHARD: Thank you, Mr. Andrew. So  
24 before we entertain any motions on this, I would turn to  
25 my colleagues and just ask if there are questions for our

1 counsel or our staff on this document or on any points  
2 that Mr. Andrew just made about the three elements of the  
3 certification Resolution or any comments that members  
4 would care to make on this at this point.

5 Any questions or comments?

6 Vice Chair Hartnett.

7 VICE CHAIRPERSON HARTNETT: Thank you, Mr. Chair.

8 I have reviewed the materials. And I want to  
9 make some comments on the materials on the final EIR. I  
10 think each of us brings certain experience with EIRs with  
11 us to this dais. And over probably the last more than 15  
12 years, I have had regular occasion to review EIRs. And I  
13 bring that experience, my own personal experience, in  
14 rendering my judgment as to the adequacy of the materials  
15 and how they're presented.

16 And in a certain sense, I find our documents no  
17 different than any other EIR in terms of it covers that  
18 which requires covering. And whether it's a big project  
19 or small project, there's some basic elements to each of  
20 them. And while ours is more complicated due to the  
21 subject matter and the length, the geography so to speak,  
22 it still has to meet that which any other project has to  
23 meet.

24 And then looking at the materials, it does seem  
25 to me that we have been presented materials that have been

1 prepared in a way that does more than a reasonable job of  
2 complying with both the technical requirements that are  
3 required under CEQA and beyond that. I believe that CEQA  
4 documents are more than supportable in terms of how  
5 they've been prepared and the information that you  
6 provided and in the evaluations that have been done.

7 And obviously, we've had the opportunity to  
8 review the materials. And it isn't the first time we've  
9 seen lots of these things when it was published. This has  
10 been evolving for a significant period of time. So we're  
11 not novices at reviewing these materials. Some of the  
12 materials were new in the sense of they were updated. But  
13 by and large, you know, we have a long opportunity to take  
14 a look at these.

15 And included in Volume 6 of the letters that were  
16 omitted and that were brought up, you know, and I looked  
17 at every single one and all their responses. And the  
18 comments were, generally speaking, nothing new. But I'm  
19 very appreciative of the fact that people take the time to  
20 make the comments both in writing and in person at the  
21 meetings. But you know, there are common themes that we  
22 hear over the years that were reiterated. But so I think  
23 we've had a fair opportunity to review documents over time  
24 and hear from staff and to hear from an informed public.  
25 Not just at the meeting yesterday, but previously on



1 issues that are germane to this as well.

2 So should a motion be made to adopt the  
3 Resolution, I'm certainly in support of it. I think we  
4 really are set with these materials to be informed to make  
5 good decisions of our own independent judgment on those  
6 things that arise from this that faces today.

7 CHAIRPERSON RICHARD: Mr. Frank.

8 BOARD MEMBER FRANK: Echoing and continuing the  
9 theme raised by the Vice Chair, I work with really  
10 countless environmental impact reports and environmental  
11 impact statements over the past 40 years. And based on  
12 that standard, I think the document that is before us is  
13 very thoughtfully and comprehensively done.

14 This process, this document has been underway  
15 since 2011 and as has been pointed out, actually the  
16 process itself started long before that back in 2005 as  
17 part of the program EIR. This has been a tiered process  
18 that CEQA and the law and the regulators strongly  
19 encourage be pursued. I think in that sense, it's a model  
20 of the process being done right away.

21 I also think the process has been open,  
22 transparent, and very inconclusive of the fact I think our  
23 staff -- there is a particular accommodation for the  
24 outreach in terms of the procedure going the extra mile  
25 beyond the four corners of CEQA's procedural requirements.

1 And I'm sure I speak for my colleagues and additionally  
2 wanted to thank really hundreds of people, property  
3 owners, stakeholders, and interested observers who  
4 participate in this process, either by providing written  
5 comments or oral testimony or both.

6 The last thing I pointed out is there was some  
7 discussion yesterday in the testimony that the document is  
8 quite lengthy and technical. And I think that is true.  
9 But I would have to remind ourselves this is similarly a  
10 very large and important project and complex project. And  
11 I think the Board and staff would be justified or  
12 criticized if we give it short shrift to the environmental  
13 analysis. In other words, this level of documentation and  
14 discussion is congruent with the complexity and importance  
15 of the project.

16 And finally, I would say that someone who values  
17 plain English I think as some of the technical appendices  
18 are slow going for me. But I think the basic documents  
19 were written in very accessible pros, which I think is  
20 particularly important in light of the second overarching  
21 requirement that CEQA, not just to inform the  
22 decision-makers, but to allow the more interested members  
23 of the public to participate in a very meaningful way in  
24 this process.

25 CHAIRPERSON RICHARD: Thank you.

1 Ms. Schenk, have you raised your hand?

2 BOARD MEMBER SCHENK: Thank you.

3 First of all, I want to thank the staff and the  
4 public and my colleagues, the past and current and  
5 especially you, Mr. Chairman, for leading us through this  
6 tremendously complex and arduous process. I can't think  
7 of anyone else who could have done it better. So thank  
8 you.

9 When I first brought the notion of high speed  
10 rail to Governor Brown in 1981, I guess we were not only  
11 young but naive. We really thought that this spectacular  
12 state of California would lead the nation in adding high  
13 speed rail to our systems of transportation.

14 Well, I guess the seasons have come and gone.  
15 Decades have come and gone. And while I was thought of as  
16 the mother of high speed rail, I guess I'm now the  
17 grandmother. But that's okay. I'm still here.

18 Other countries have built systems. In fact,  
19 many of them are on their second and third and even fourth  
20 generation. And here we are. But I don't want to dwell  
21 on the past and should we have done this sooner and should  
22 we have had this sooner. I want to sit here in Fresno and  
23 look to the future. The future of those young people who  
24 came before us both yesterday and in the past and the  
25 generation that they represent. And I feel a tremendous

1 obligation to them.

2           So for the people who asked us to delay this yet  
3 again -- and I thought about it very seriously -- and you  
4 know, in the past I've been known to not agree with  
5 colleagues, to vote against certain proposals. But in  
6 reflecting deeply on this, I see no basis on which to  
7 delay any further.

8           The record of this process, as was pointed out,  
9 began not on April 18th, as some of the speakers would  
10 have us believe. It began years ago. The record has  
11 evolved. And you agree with Rick that the ability to read  
12 it has become much easier and the initial drafts were a  
13 little bit more technical, little bit hard to understand.  
14 The staff listen and wrote it in as plain English as  
15 possible. And while it looks voluminous sitting there and  
16 it is voluminous, for those who have insinuated that we  
17 have not read this, I tell you that you are wrong. We  
18 have. And we've read your letters. We've read the  
19 responses. Did we memorize every part of it? No. But we  
20 did absorb the kind of information to allow us to make a  
21 very important decision today.

22           And the staff has recommended to this Board and  
23 the Board has in the past granted a lot more leeway, and  
24 as it should have, because of the enormity of the project.  
25 And the draft EIR/EIS scenario we gave far more time than

1 was required by law. And while some of us may still have  
2 a question here or a question there, they don't rise to  
3 the sufficiency to impose anymore delay. And so when the  
4 motion will be made, I with a very happy heart support  
5 that motion, Mr. Chairman.

6 CHAIRPERSON RICHARD: Thank you very much,  
7 Ms. Schenk.

8 Any other questions or comments at this point?

9 Yes, Ms. Perez-Estolano.

10 BOARD MEMBER PEREZ-ESTOLANO: I do have some  
11 questions. And actually it was a year ago -- nice person  
12 reminded me it was a year ago that you were appointed and  
13 sworn into this Board here in Fresno April of last year.  
14 But the point is that in a year of being involved with  
15 this project, it has been important to me to raise  
16 questions and ensure transparency and to be clear about  
17 why we do what we're doing so that that is within the  
18 public domain.

19 So before I shared my opinions about the document  
20 and what we're about to do, I do have some questions.

21 In advance of today's action, I wanted to make a  
22 tour of the corridor. I thought it was very important to  
23 do that. So I did that along with a colleague. And it  
24 was important for me to experience the corridor because  
25 you get a different sense of what's happening on the

1 ground.

2 So there's a few things. One, in terms of the  
3 socio-economic disadvantaged communities, there is a lot  
4 of good things that we're doing. There was one particular  
5 project that was stunning to me in the community of Wasco.  
6 It's a public housing project. And perhaps I should have  
7 asked earlier, but it was something that was to me a  
8 glaring concern. And so I'd just like to ask about that  
9 project. What are we doing to assist that community about  
10 that particular one before I raise other questions.

11 ASSISTANT CHIEF COUNSEL ANDREW: On this one,  
12 I'll turn it over to Ms. Gomez. It's something we have  
13 considered in a substantial amount of detail. And Mr.  
14 Gomez will comment.

15 BOARD MEMBER PEREZ-ESTOLANO: Just for  
16 perspective, I think this was a public housing project and  
17 it was of great concern to me to see young families next  
18 to -- I think it was a coal --

19 CENTRAL VALLEY REGIONAL DIRECTOR GOMEZ: A coal  
20 plant.

21 BOARD MEMBER PEREZ-ESTOLANO: Yeah.

22 CENTRAL VALLEY REGIONAL DIRECTOR GOMEZ: Within  
23 the city of Wasco, most of the residents live west of the  
24 current existing tracks. There is one Housing Authority  
25 that is left -- well, it's on the east side of the tracks.

1 So when we come through there with our project, one of the  
2 questions was will we further be dividing the Housing  
3 Authority from the rest of the city. We have been working  
4 with the City. The City along with the Housing Authority  
5 does have a solution. They have acquired property on the  
6 west side of the tracks for relocation of the Housing  
7 Authority. This will then help the Housing Authority in a  
8 sense. It will be on the same tracks where all the  
9 businesses are, the schools in the sense within the  
10 community.

11 And we are working with the City to assist them  
12 in helping getting the Housing Authority relocated as part  
13 of our mitigation efforts. We would have to mitigate in  
14 terms for noise and also in terms of the environmental  
15 justice. So we think that by assisting the city with a  
16 solution that they have already started, we will assist  
17 with that issue.

18 ASSISTANT CHIEF COUNSEL ANDREW: So to add a  
19 little more refinement on that, I think in essence what  
20 we've concluded is the EIR has its conclusion about that  
21 particular project, has mitigation for it to ensure  
22 impacts would be reduced across a couple of different  
23 disciplines, noise and other issues.

24 And I think what's been developed, which  
25 Ms. Gomez said is a great result, is we can in essence and

1 CEQA allows mitigation measures to be swapped out after  
2 the project is approved, as long as the mitigation  
3 measure -- new mitigation measures done later is  
4 equivalent or better than the one you already have.

5 In essence, what's been worked out with the city  
6 of Wasco is, in essence, if it works itself out, we'll be  
7 able to swap out a mitigation measure of actually working  
8 with the City to move it, instead of doing sound walls and  
9 other things to keep it in place for no additional cost.  
10 So it's a result that allows a better result than the EIR  
11 came up with, which was the EIR did not conclude it was an  
12 issue to begin with. But this is a better result and  
13 won't cost any more money. That's what's being looked at.

14 BOARD MEMBER PEREZ-ESTOLANO: That's the kind of  
15 stuff that I'm excited that this is allowing us to do.

16 I come from a farm worker family, and I may not  
17 be a farmer, and I'm not a chemist. And I'm not an  
18 engineer. But it was actually -- it was very eye opening  
19 to see kinds of the activities, the moving of soils and  
20 the tilling of the fields and everything that's going on  
21 and think just like what's already there and the challenge  
22 that we face in terms of building this building in the  
23 midst of a lot of different conditions.

24 So what I'm excited about is that we can do this  
25 in the most environmentally responsible and sensitive way



1 and ameliorate the conditions of some folks significantly.  
2 And I'm thinking about the young folks, the young kids I  
3 saw there that have to live with these conditions. So I'm  
4 excited about the opportunity to improve their quality of  
5 life and for me to understand that by approving the CEQA  
6 document and by supporting everything that we've done to  
7 know that we have reached out to communities and to  
8 property owners and to neighborhoods and every  
9 organization that we can to hear their concerns, address  
10 their issues.

11 And I really want to say thank you to the team,  
12 to our staff as well as to the cities that we're working  
13 with and in partnership with them so that we can together  
14 do this project. So I don't want to get on my soap box.  
15 I just want to say going and spending time on that  
16 corridor really helped me appreciate what we're trying to  
17 do and the environment under which we're doing it.

18 CHAIRPERSON RICHARD: Thank you.

19 Ms. Selby.

20 BOARD MEMBER SELBY: Mr. Chair, I was the  
21 colleague who was on that trip. And this is actually my  
22 third trip to Fresno, the Fresno area, in the last month  
23 and a half. And I want to focus on the Part C of the  
24 certification that that document reflects the Authority's  
25 independent judgment and analysis.

1 I have to say that I have received numerous  
2 briefings by various people from Tom Fellenz to Jim Andrew  
3 to Mark McLoughlin to try and get me to understand this  
4 document. And I'm highly appreciative of the amount of  
5 time. It took time sometimes on the weekends, I met with  
6 people. Sometimes after hours. Sometimes  
7 teleconferencing. And I really appreciate that. And I  
8 must say I feel very much that this -- the staff of the  
9 Authority owns this project. They get it. They are  
10 emotionally engaged in what it's all about. And they're  
11 doing their best to make that happen.

12 I want to thank Diana Gomez specifically for  
13 taking me around the project twice. She met me on two  
14 separate days to have me look at Madera to Fresno and then  
15 Fresno to Bakersfield. And it is eye opening. It is -- I  
16 think it's absolutely important to meet with them, to meet  
17 with them who are getting the properties mitigated. We  
18 met with one person who is moving from one spot to  
19 another, a barber who had been there for 30-plus years,  
20 and then we met with a gas station that may or may not be  
21 moving. And both of them, it seemed to me, were being  
22 treated well, that they understood the process and that  
23 they felt like they were being treated fairly. So that  
24 was great for me to see.

25 I want to finally just thank obviously the people

1 of the Central Valley who have been coming to these  
2 meetings. As my colleagues have said, for their passion  
3 obviously for the beautiful Central Valley and for  
4 spending the time to help inform this project. I'm  
5 convinced that this project would not be as good as it is  
6 and that the document that we're looking at today would  
7 not be as good as it is. But without all of the  
8 contributions of all of the people who have taken their  
9 time to add to it. So I thank you.

10 CHAIRPERSON RICHARD: Thank you, Ms. Selby.  
11 Vice Chair Richards.

12 VICE CHAIRPERSON RICHARDS: Thank you, Mr.  
13 Chairman. I'll just make it short.

14 First of all, I would echo most of the comments  
15 by my colleagues. Over the years, I have been involved in  
16 a number of environmental impact reports and studies  
17 generally as an applicant.

18 The one thing I've come away with is generally  
19 the EIRs in the process don't change people's minds. So  
20 it's not without any expectation that the document itself  
21 didn't necessarily turn people who were opposed to the  
22 project and people who are in favor of it. But when you  
23 think about it, that's not really the role of the  
24 Environmental Impact Report and the process. The process  
25 is to ensure that we have adequately and according to

1 California law studied the environmental impacts of the  
2 project.

3 And it's clear to me at least from my experience  
4 and a number of others none as complex as this, none that  
5 has been under process as long as this, that this is head  
6 and shoulders beyond any that I have seen. And it ought  
7 to be because of the scope of this project.

8 But I particularly agree with my colleague,  
9 Member Schenk. There is -- I can't imagine comments that  
10 would be appropriate or would be expected -- perhaps they  
11 would be appropriate -- but expected that by delaying this  
12 process would cause a change in the environmental results  
13 or the conclusions made in the document. And so with her,  
14 I would -- if the motion is made, I would certainly  
15 support moving forward with the certification of this  
16 environmental report and the EIS. Thank you.

17 CHAIRPERSON RICHARD: Thank you.

18 I'm going to reserve comments for the next item.  
19 And before we entertain a motion on this, I just want to  
20 echo what my colleagues have said in thanking all the  
21 staff members, the consultants, Mr. Morales, the lead  
22 leader the staff, Ms. Gomez, you're the leader here in the  
23 Central Valley, all of the people who have worked on this,  
24 some of whom we have heard from. Many, many most of whom  
25 we have not.

1           And I would just say that given the comments that  
2 have just been recently made by my colleagues, I think  
3 what we've seen in this document is a very high degree of  
4 professionalism and you have our gratitude for that. So  
5 thank you.

6           At this point, I think comments have been made.  
7 I'll entertain a motion on the Resolution before the Board  
8 for the certification of the California High Speed Rail  
9 Final Environmental Impact Report, Environmental Impact  
10 Statement for the Fresno to Bakersfield section.

11           BOARD MEMBER FRANK: Mr. Chairman, I would so  
12 move, specifically including each of the three specific  
13 certifications as contained on pages two and three on  
14 draft Resolution outlined by counsel.

15           VICE CHAIRPERSON HARTNETT: Second.

16           CHAIRPERSON RICHARD: It's been moved by Board  
17 Member Frank, seconded by Board Vice Chair Hartnett.

18           Please call the roll.

19           BOARD CLERK NEIBEL: Ms. Schenk?

20           BOARD MEMBER SCHENK: Yes.

21           CHAIRPERSON RICHARD: Vice Chair Richards?

22           VICE CHAIRPERSON RICHARDS: Yes.

23           BOARD CLERK NEIBEL: Vice Chair Hartnett.

24           VICE CHAIRPERSON HARTNETT: Yes.

25           BOARD CLERK NEIBEL: Ms. Perez-Estolano.

1 BOARD MEMBER PEREZ-ESTOLANO: Yes.

2 BOARD CLERK NEIBEL: Mr. Frank.

3 BOARD MEMBER FRANK: Yes.

4 BOARD CLERK NEIBEL: Ms. Selby?

5 BOARD MEMBER SELBY: Yes.

6 BOARD CLERK NEIBEL: Chairman Richard?

7 CHAIRPERSON RICHARD: Yes.

8 Thank you.

9 Before we move to the next item, should we -- I  
10 guess the question is should we take a break now? The  
11 court reporter, for the record, gave us a thumbs up. We  
12 are good. The record will reflect that.

13 Mr. Andrew, did you want to make any comments  
14 before the next item on the adoption of the project  
15 Resolution itself?

16 ASSISTANT CHIEF COUNSEL ANDREW: No, I do not.  
17 You summarized the two step process, and we are now at  
18 step two.

19 CHAIRPERSON RICHARD: All right. Before we go on  
20 to that, Vice Chair Richards, do you want to -- you had  
21 some issues or concerns you wanted to add to this  
22 Resolution?

23 VICE CHAIRPERSON RICHARDS: Thank you, Mr. Chair.

24 With regards to Resolution Number HSRA14-10, I  
25 would ask staff to amend that Resolution which we will act

1 on shortly to include the following changes:

2 The first change would be to add to the end of  
3 the fifth whereas clause the following: "And the  
4 Authority will not approve any construction south of 7th  
5 Standard Road without providing the city of Bakersfield  
6 with at least 60 days written notice."

7 And the second change to the Resolution with the  
8 approval of my colleagues would be to amend -- to address  
9 the valley fever and amend Exhibit A to require an  
10 additional required design feature for the construction  
11 safety and health plan in the Final Environmental Impact  
12 Report Section 3.11.6, the four items listed on page one  
13 of the staff response document dated May 7th, and which  
14 Jim recently reported to us in the previous presentation  
15 on the previous Resolution.

16 CHAIRPERSON RICHARD: Okay. Thank you very much,  
17 Vice Chair Richards.

18 I think both of those address both the request by  
19 the city of Bakersfield and further elucidation of  
20 mitigation measures on valley fever and are responsive to  
21 questions.

22 Mr. Andrew, you want to make a statement?

23 ASSISTANT CHIEF COUNSEL ANDREW: Just briefly  
24 just to remind the Board -- reiterate a little bit details  
25 exactly what you're doing, what the Board is being

1 requested to do right now, which is approval of the  
2 project.

3 As the Chair mentioned earlier, part of that  
4 involves I guess I would call it sort of staring in the  
5 face of adopting the findings of what the impacts are of  
6 this particular project, the impacts of mitigation  
7 measures are in the EIR that you just certified. Those  
8 have been brought forth into the Resolution which are  
9 findings of fact where the Board is acknowledging the  
10 impacts of the project and the mitigation measures that  
11 through this Resolution will be required to mitigate those  
12 impacts.

13 This is a piece that comes from a CEQA document,  
14 but it is related to the approval itself. And I think  
15 what's important about that is that the EIR/EIS document  
16 goes all the way from the Fresno station to the  
17 Bakersfield station. The staff recommendation, as you've  
18 heard, is for approval of the project for now, just a 7th  
19 Standard Road in the outside of Bakersfield for the  
20 reasons I've been discussed over the past few days.

21 The CEQA findings that are part of this  
22 Resolution are only making findings about that particular  
23 part of the project. That's how the CEQA process works.  
24 You are making findings about the impacts of the thing  
25 that you are going to approve. So that's what the



1 findings actually contain.

2 And the second part is a project like this and  
3 many projects, not all impacts can be totally eliminated  
4 through the mitigation measures. So what CEQA requires is  
5 that the Board acknowledge remaining impacts that cannot  
6 be mitigated and then weigh and balance those impacts  
7 against the benefits that the project would produce and  
8 adopt a Statement of Overriding Considerations that for  
9 reasons the benefits -- those benefits override the  
10 impacts that cannot be mitigated because there is no  
11 feasible mitigation to mitigate those impacts.

12 You have to mitigate first where feasible. And  
13 if you cannot mitigate because it's not feasible or there  
14 is no technically available mitigation, CEQA says decision  
15 makers have to acknowledge those and specifically weigh  
16 and balance the benefits of the project against those  
17 remaining impacts.

18 That's what the Statement of Overriding  
19 Considerations document -- Statement of Overriding  
20 Consideration, which is part of the findings of Exhibit A  
21 document which is Exhibit A to the Resolution and then  
22 Exhibit B is the Mitigation Monitoring and Reporting plan  
23 that the Chair mentioned earlier, which is the -- although  
24 the mitigation measures that are part of Exhibit A are  
25 reiterated in sort of a tracking format to make sure that

1 they're not lost, that we have charts and columns about  
2 who's going to do it, when it's going to be done. This  
3 implementation tool so that the requirement of mitigation  
4 is not just a paper exercise that gets lost through the  
5 implementation of the project.

6 CHAIRPERSON RICHARD: Thank you.

7 Just before we go on, I have comments I want to  
8 make. Just on this last point, these two items that Vice  
9 Chair Richards put forward here, are there any questions  
10 or concerns on that? They strike me as both highly  
11 appropriate.

12 Okay. With that, and having certified the  
13 Environmental Impact Report and the environmental  
14 documents, we now come to what is, in essence, a vote on  
15 the project itself. And I have a few comments that I'd  
16 like to make at this point.

17 First and foremost, people in the public life  
18 often spend a lot of time congratulating each other. I  
19 suppose the public gets weary of it. But I can't go any  
20 further without saying how profoundly honored I am to  
21 serve with this group of women and men. They're very  
22 serious people. They take their responsibilities  
23 seriously. I think you've seen that in terms of the  
24 diligence with which they've approached these very complex  
25 matters. Some of our newest members taking time out of

1 their lives to travel the entire alignment. It's just a  
2 wonderful group of people who are very public minded and  
3 I'm just honored to be a part of this.

4 Speaking of that, when you sit where we're  
5 sitting, you have the weight of public responsibility to  
6 make decisions that are going to have some impacts or  
7 effects on people's lives. And that's always a difficult  
8 thing, because I think most of us sit here and think that  
9 the construction of a high speed rail system in California  
10 which was called upon by the voters, called upon by the  
11 Legislature and the people of California is a good thing  
12 for the State. Most of us believe that. All of us  
13 sitting up here believe that.

14 But we are not blind to the fact that that cannot  
15 be done without having some effect on individual lives.  
16 And you know I have seen this firsthand. Like my  
17 colleagues, I've traveled throughout the valley. Ross  
18 Browning spoke yesterday. Mr. and Ms. Browning were very  
19 gracious in hosting me in front of their home in Kings  
20 County. Mr. Browning said, "Listen to this." And he  
21 stopped. And he said, "The quietness is why we moved  
22 here." They're facing a potential overpass that would  
23 have some -- could effect the economic value of their  
24 property and their lifestyle.

25 I have stood on Frank Oliveira's farm. Looked at

1 his cherry trees. And when he asked me the question of  
2 how am I going to be able to work both sides of this with  
3 the alignment coming through?

4 I have traveled with the Fukuda family and seen  
5 their son Aaron's home in the Ponderosa Ranch subdivision  
6 which would be impacted heavily with an alignment that  
7 comes through this.

8 I've stood in the milking barn of Sam Gasbar,  
9 second generation dairy man whose family works the dairy  
10 farm there.

11 I've stood at the edge of John Tos's property,  
12 the chief plaintiff in the lawsuit against us, and seen  
13 where the alignment would come.

14 You can't do this and meet these people and get  
15 to know them as human beings without feeling a great sense  
16 of responsibility for making a decision that might have  
17 some effect on people's lives. And it just comes with the  
18 territory and it's part and parcel of what we do here.

19 But at the same time, as was pointed out, we have  
20 to make a decision about whether or not there are larger  
21 superseding benefits and value that this decision would  
22 bring, not only to this community, but to the State as a  
23 whole.

24 And you know, in reflecting on that, let's  
25 consider a couple of things. We've got another

1   billionaire who just because he made a lot of money and  
2   was successful in business thinks he has a great idea for  
3   how the State wants to be organized, a measure to divide  
4   California into six separate States. Now, consider this.  
5   If that were to succeed, where we're sitting now in the  
6   Central Valley, the State of Central California that he  
7   would create would replace Mississippi as the poorest  
8   state in the union. It's a shocking thing to contemplate  
9   because of the tremendous wealth and success we have here  
10   in the agricultural sector, and yet poverty is rampant in  
11   this part of California.

12           We heard people yesterday talking about children  
13   in Hanford coming to school with inhalers. That's not  
14   because of high speed rail, because there is no high speed  
15   rail. That's because 21 percent of the children in the  
16   Central Valley have asthma because the air quality in this  
17   region is so poor that it violates federal standards and  
18   violates State standards. And something needs to be done  
19   about that.

20           We need to look at the future of the Central  
21   Valley on the course that we are on right now. According  
22   to the expert -- and I hear people say to us as well --  
23   high speed rail is going to -- one person used the word  
24   destroy agriculture in the Central Valley. I would like  
25   to put things into perspective.

1           We are looking at across this 114 mile segment  
2 about 3,500 acres of agricultural lands that would be  
3 heavily effected. And I'd like that number to be as close  
4 to zero as possible.

5           Over the last 40 years, Mayor Swearengin tells us  
6 that the city of Fresno, not the county, but the city  
7 converted 50,000 acres of agricultural land to  
8 development. In the years between 2000 and 2008, the  
9 counties of Fresno and Kings converted 33,000 acres of  
10 land to development. That's almost ten times the amount  
11 of land that we're talking about for the high speed rail.

12           The experts predict between now and 2035, 173,000  
13 acres of land farmland in the Central Valley will be  
14 converted to development. If we don't do anything else  
15 and present trends continue, and we're looking at over the  
16 next 40 years up to ten percent of the arable farmland in  
17 the Central Valley being lost.

18           Now, high speed rail is not going to counter all  
19 of that. But the opportunity to revitalize these cities,  
20 to create vibrant downtown areas that connect people's  
21 jobs and living areas is a great promise of high speed  
22 rail and something that I really believe in conjunction  
23 with far-sighted leaders such as we have here in the city  
24 of Fresno and in Palmdale and other communities, in which  
25 we're working with really look to revitalization of the

1 downtowns and the high speed rail can be a tool to do  
2 this.

3           The State passed Senate Bill 375 by Steinburg to  
4 require communities to coordinate land use and transit  
5 planning. I've been told by planners here in the valley  
6 that high speed rail is virtually the only tool -- not the  
7 principle tool, but virtually the only tool that they have  
8 to drive that kind of more vigorous downtown development.

9           So yes, there are going to be effects. Oh, and  
10 let me also mention the unemployment rate as we sit here  
11 is twice the State's average. The construction trades,  
12 it's 30 to 40 percent. The opportunity to connect our  
13 State is I think the greatest benefit that high speed rail  
14 can bring.

15           And I've actually quoted one of the things that I  
16 thought was most amazing was when Governor Brown was able  
17 to push through the California Legislature by one vote  
18 the, same margin by which we got through the California  
19 Legislature by one vote the State Water Project. At the  
20 end of that, he called in all his supporters and advisors  
21 and raised his glass and said, "Now we are truly one  
22 California." And that is something that's a promise that  
23 I think we're here to renew.

24           I just want to add one other point. And perhaps  
25 there is a personal aspect on this because I and my

1 colleagues have been called out on this. We live in a  
2 time when political discourse unfortunately gets polluted  
3 by the need to demonize people who are on the other side  
4 of issues that we have. It's a natural human tendency and  
5 I understand it.

6 And I also think that people who want to  
7 challenge the project for whatever reason would like to  
8 try to use as a tool for that undermining the legitimacy  
9 of what we do here. And frankly, I think the statements  
10 that have been made by some elected officials and others  
11 that we're jamming the process and lack credibility, when  
12 you look at the actual record of the length to which this  
13 organization has gone to be inconclusive and transparent.  
14 People can have different views on that. But I think the  
15 facts are pretty clear.

16 And in particular, I just want to comment on some  
17 of the statements that were made by officials from Kings  
18 County that said that in this process that somehow we had  
19 not been responsive and we had broken our promises and so  
20 forth. Now let's just review a little history. This  
21 document would have been before this Board several months  
22 ago, but I personally asked the Board to delay its release  
23 in the late spring and early summer of 2012 because we  
24 were trying at that point to see if there was a way to  
25 work with Kings County on issues that could be resolved.



1 And we knew that once the document was released, we were  
2 all constrained by the formal legal processes. I can't  
3 say that either our staff, our counsel, or our funding  
4 partners at the Federal Railroad Administration were  
5 thrilled about that. But we did. Unfortunately, it did  
6 not result in any kind of positive movement there.

7 We did extend time. We doubled the time period  
8 that people had to comment on this. In June of 2013,  
9 Ms. Gomez, I, and several of the other technical staff  
10 went to Hanford for an all-afternoon meeting in Kings  
11 County. And at the time, Kings County was a litigant.  
12 They still are litigants against us. So I can't say that  
13 Mr. Fellenz, our outside counsel, and the Attorney  
14 General's Office and others were thrilled about the notion  
15 of the Board Chair sitting down in an open public meeting  
16 talking with people about issues that were subject of  
17 litigation. But we said, look, we think it's important to  
18 try to reach out and do this. And I remember standing  
19 there at the white board drawing pictures of I-5 and maps  
20 of Highway 99 and explaining to people exactly what the  
21 thinking was about why those corridors had, in fact, been  
22 rejected in the earlier environmental analysis. So I know  
23 we went through all those issues.

24 Today's, Kings County is not allowing us onto  
25 public lands -- not private lands, but public lands to do

1 soils testing or other things that would be important for  
2 us as we move forward with the project. That issue  
3 unfortunately is going to have to be resolved in court.

4           So I reject the notion that this Board and its  
5 staff has not reached out to any part of this Central  
6 Valley in trying to move this project forward. And in  
7 fact, I just want to close with this. Sherlock Holmes had  
8 his famous story that was predicated on the clue about the  
9 dog who didn't bark. Let's talk about the people who did  
10 not appear yesterday to raise issues with what we're  
11 doing. I did not see State agencies like Fish and  
12 Wildlife or other departments of our natural resources  
13 agency come here and say you have not adequately  
14 considered these issues. You're leaving concerns out. I  
15 did not see environmental groups come and say we have  
16 grave concerns about what you're doing. In fact, the  
17 American Lung Association came and said we basically  
18 support what you're doing. And with one possible  
19 exception, I did not see groups from the agricultural  
20 sector as we had frankly when we did with the Merced to  
21 Fresno EIR/EIS come in and say you've totally blew it and  
22 you missed the impacts you have on agriculture.

23           In fact, contrary, we were very gratified that  
24 some of the biggest agro businesses in the southern San  
25 Joaquin Valley came in and said they appreciated the

1 alignment decision. But also I remember hearing Ms. King  
2 say that they appreciated the fact that we had brought  
3 into this process the mitigation measures that were part  
4 of a settlement in the earlier alignment and that was  
5 going to have a beneficial impact on agriculture.

6 So here's a narrative that maybe you're not  
7 really seeing in the newspapers. That's no knock on any  
8 of our friends in the media. But I just want to point  
9 out. Yesterday somebody stood up and talked about the  
10 fact that in May of 2011 something happened and then it  
11 really misrepresented positions to the Board, et cetera,  
12 et cetera. I wasn't here then. Mr. Morales wasn't here  
13 then. Ms. Gomez wasn't here then. Mr. McLoughlin wasn't  
14 here then. Many of my colleagues weren't here then. So I  
15 don't know what happened then.

16 But I know what's happened in the two and a half  
17 years I've been on this Board. In the two and a half  
18 years I've been on this Board, we have come into the  
19 Central Valley, an area that will benefit more than any  
20 other part of this State from high speed rail, an area  
21 where there had been a lot of unhappiness up and down the  
22 valley, lack of information, inadequate communication, so  
23 forth. We settled -- resolved all four environmental  
24 lawsuits. Madera, Merced Counties and the respective farm  
25 bureaus. We settled and resolved environmental lawsuits

1 challenges in Chowchilla. We've resolved issues here in  
2 Fresno on Golden State Avenue and other places. South of  
3 Kings County and Wasco-Shafter, we have worked with the  
4 effected communities and come up with an alignment that  
5 works. Into Bakersfield, we are now working with the city  
6 of Bakersfield.

7         The story of high speed rail in the Central  
8 Valley is that over the last two years, I believe we've  
9 started to write the chapter of how you can bring a major  
10 infrastructure project to bear in the right way. Working  
11 with communities with sensitivity to their needs and  
12 listening to their concerns and then with highly  
13 professional people resolving those.

14         I would hope that we can still do that in the  
15 remaining parts of the valley. I have to tell you, I'm  
16 not sure there is anything that we can do that would be  
17 satisfactory there. I hope I'm wrong on that. But I  
18 think it's important as we go forward today to say two  
19 things. This will be a tremendous improvement to the  
20 valley and the benefits of this will tremendously outweigh  
21 the costs. And the second thing is that this organization  
22 is very serious about its public responsibilities.

23         We will continue to reach out to every citizen,  
24 every public official, every organization and try to make  
25 sure that this is done in the right way.

1 I'm sorry I went on longer than I intended to.  
2 But this is the end of a two and a half year process. So  
3 with that, I'd entertain any other comments or questions  
4 from my colleagues or entertain a motion on the documents  
5 itself.

6 BOARD MEMBER FRANK: Just one quick comment as we  
7 move to the merits of this process.

8 Like my colleagues, I listened with great  
9 interest to informed and passionate testimony yesterday.  
10 But I confess, I was particularly taken by a couple of the  
11 people who testified. And they're both local students  
12 here. And in my day job, I work with students all the  
13 time. I'm particularly sensitive to their needs. If I  
14 got my notes right, one of the students from the local  
15 State university characterized high speed rail as, "the  
16 next natural progression for transportation in  
17 California." And another student referred to high speed  
18 rail as "a stepping stone to the future." I thought those  
19 were very thoughtful cogent comments and they resonated  
20 with me as I approach this decision.

21 CHAIRPERSON RICHARD: Thank you.

22 Vice Chair Richards.

23 VICE CHAIRPERSON RICHARDS: Yes, thank you, Mr.  
24 Chair. I would thank you for the comments.

25 I also was touched and certainly moved by a

1 couple of the comments from the students. But one is one  
2 that we have echoed over the last several years and here  
3 in the valley especially with the very often support of  
4 our Chair. But that was one of the students -- I think  
5 her name was Bianca Rodriguez. And what she said is  
6 something that's really important. And for all of us here  
7 in the valley, we understand this. She said that  
8 two years ago it was her intention to get her degree and  
9 leave. And now she sees a reason to stay because of high  
10 speed rail and other opportunities that it will bring with  
11 it.

12 For all of us who live here and for my colleagues  
13 who don't, we can tell you story after story after story  
14 over the last 25 or 30 years about how we had lost the  
15 best and brightest in the valley, leaving to other parts  
16 of this State and other parts of the country for better  
17 opportunities.

18 And so one of the things that I have always  
19 thought from the outset and that we have talked often to  
20 groups, high speed rail is in and of itself an amazing  
21 transportation system. But for a valley as large as ours  
22 with as much economic strife that we have and continue to  
23 live through, with unemployment far in excess of the rest  
24 of the State and the country, and with an entire economy  
25 that pretty much have lived on and continues to live on

1 the hopes and aspirations and successes of agriculture, we  
2 have consistently had the need to look for something else.  
3 That has not happened very successfully over the years and  
4 we'll continue to be talking about it.

5 But there are two things that have happened.  
6 One, through development of which many of you know I have  
7 spent most of my adult life here and have participated in  
8 and that is removing land from agriculture and other  
9 purposes for urban sprawl. In the long term, that doesn't  
10 benefit any of us locally or as a State. What it doesn't  
11 do most of all is it does not benefit agriculture. Never  
12 has and never will. Because we are probably as a result  
13 of urban sprawl the greatest perpetrators of the laws of  
14 agricultural land and all the things that go along with  
15 it.

16 As the Chairman said, 173,000 acres over 2035.  
17 Agriculture can't afford that. We can't afford to lose  
18 the prime agricultural land that we've so readily taken  
19 over the last 35 years. That this combination with an  
20 opportunity to do with something with high speed rail that  
21 I was saying to the Chair of Engineering yesterday, you  
22 know, the project in and of itself is going to create  
23 jobs. And we know how important that is. It's going to  
24 have an economic benefit in the near term. We know how  
25 important that is.

1           But in the longer term, what I have constantly  
2 hoped for and encouraged people to think about is not what  
3 we're doing for this specific project, but what are we  
4 going to do to benefit the economy of the Central Valley  
5 for more than just the construction period. Because it  
6 is -- I've often thought it's just like Coca-Cola. As  
7 hard as Pepsi and other soft drink manufacturers have  
8 tried to exceed its success worldwide, when you're first  
9 out of the block, it's very difficult if you do your job  
10 to be beaten.

11           And that's what we have an opportunity to do  
12 here. We have an opportunity not just to be on the  
13 leading edge of constructing high speed rail, but learning  
14 how to develop it and learning how to make it better. And  
15 that's where organizations, institutions like Fresno State  
16 and the other universities and State universities up and  
17 down the valley are taking the benefit of adjusting  
18 curricula to provide the kinds of training for the young  
19 people coming up so there are opportunities here, not just  
20 to be involved perhaps with high speed rail and other  
21 technology, but to make it better. To be leaders in the  
22 movement of high speed rail across the state and across  
23 the states of the United States. So the opportunities  
24 here perhaps aren't akin to aviation in Southern  
25 California 50 years ago.



1           But it is the best hope that we've had as long as  
2 I've been here. And it's the best opportunity for us to  
3 share with agriculture. And the other parts of our  
4 economy, how we can, in fact, improve the Central Valley  
5 and quit being called the Appalachia of the west and  
6 quit -- what you said was frightening to me. I never even  
7 thought of it, Mr. Chairman. It's foolish to think we're  
8 going to break California into six states. But can you  
9 possibly imagine how this central part of California, as  
10 the most depressed state in the union, if that were to  
11 happen, how would we ever survive? We could no longer  
12 live off of the benefits of agriculture. Just wouldn't  
13 happen.

14           And I would only want to say we're talking  
15 about -- within the agriculture inventory in this  
16 four-county area, we're talking about less than one-tenth  
17 of one percent. I mean, I know one thing about  
18 agricultural people. Many of them are my friends, my  
19 associates, my colleagues. They're very knowledgeable in  
20 how to adjust to make things happen. That's what  
21 agriculture does. It's why you've been successful here.  
22 It's why you will continue to be successful. That's why  
23 together what we can do is we can build an economy in the  
24 central part of California that really does give us that  
25 opportunity to sit at the same table with a full-size

1 chair as the other economic parts of the states of  
2 California. It's why I have no difficulty other than I  
3 feel incredible pain for the people that this effects.

4 But I feel no difficulty, Mr. Chairman, in making  
5 the motion for the approval of Resolution HSRA14-10  
6 California High Speed Train Fresno to Bakersfield Section,  
7 Adoption of the CEQA Findings and Fact and Statement of  
8 Overriding Conditions, Adoption of Mitigation Monitoring  
9 and Reporting Plan and Approval of an Alignment in Station  
10 Location.

11 BOARD MEMBER SCHENK: I'll second that.

12 CHAIRPERSON RICHARD: That's been moved by Vice  
13 Chair Richards, seconded by Member Lynn Schenk.

14 And I'm assuming, Mr. Vice Chairman, that you  
15 mean to include the two other items that you previously  
16 described.

17 VICE CHAIRPERSON RICHARDS: Yes. Thank you, Mr.  
18 Chair. As my proposed amendments.

19 CHAIRPERSON RICHARD: So as amended, the  
20 Resolution is before us. Would the secretary please call  
21 the roll?

22 BOARD CLERK NEIBEL: Ms. Schenk?

23 BOARD MEMBER SCHENK: Yes.

24 BOARD CLERK NEIBEL: Vice Chair Richards?

25 VICE CHAIRPERSON RICHARDS: Yes.

1 BOARD CLERK NEIBEL: Vice Chair Hartnett?

2 VICE CHAIRPERSON HARTNETT: Yes.

3 BOARD CLERK NEIBEL: Ms. Perez-Estolano?

4 BOARD MEMBER PEREZ-ESTOLANO: Yes.

5 BOARD CLERK NEIBEL: Mr. Frank?

6 BOARD MEMBER FRANK: Yes.

7 BOARD CLERK NEIBEL: Ms. Selby?

8 BOARD MEMBER SELBY: Yes.

9 BOARD CLERK NEIBEL: Chairman Richards?

10 CHAIRPERSON RICHARD: Yes. Thank you all very  
11 much for that. We do have --

12 (Applause)

13 CHAIRPERSON RICHARD: We have two other items on  
14 our agenda. I think at this point why don't we take a few  
15 minute break, and then we'll come back and address those  
16 last two items. Thank you.

17 (Whereupon a recess was taken.)

18 CHAIRPERSON RICHARD: We have two other agenda  
19 items for the Board. Item Number 7 is an amendment to the  
20 financial advisory contract.

21 And Mr. Morales, would you like to introduce this  
22 item or is Mr. Fellenz going to do that?

23 CHIEF EXECUTIVE OFFICER MORALES: I can do that.  
24 These next two items I think are significant because they  
25 really are reflective of now really moving forward with

1 this program. And helping us do that, the first one is  
2 for financial advisory we have an existing contract in  
3 place and we are asking for your approval to go out and  
4 conclude our financial advisory contract. It's  
5 significant in that the one we had place currently because  
6 over the next few years we are looking at a whole new  
7 stage of development of the program and the types of  
8 skills and advise we need from an advisor as we look at  
9 concession agreements and operating agreements at bringing  
10 in private investment into the program.

11 So the RFP reflects that. We use the procurement  
12 process to bring on the best resources that we can to help  
13 us achieve those goals and maximize the benefit for the  
14 State economically as we go forward and put together the  
15 program. So what we are asking is to extend the time of  
16 the existing contract with no additional funds and  
17 implement the procurement of the new contract, which would  
18 we look to have in place this fall.

19 CHAIRPERSON RICHARD: Okay. Ms. Perez-Estolano,  
20 do you have a question? Or no.

21 BOARD MEMBER PEREZ-ESTOLANO: No, I did have one  
22 question. I was looking for clarification because I  
23 didn't see it written in the staff report. Is there an  
24 existing contract? There is a total, which has a total  
25 value. And we are essentially just extending the current

1 contract, but not extending that final value. So --

2 CHIEF EXECUTIVE OFFICER MORALES: That's correct.

3 BOARD MEMBER PEREZ-ESTOLANO: So we're only out  
4 an extra 90 days to allow us time to put an RFP out for --  
5 either put an RFP out that would include the 30 percent  
6 requirement for small businesses?

7 CHIEF EXECUTIVE OFFICER MORALES: That is  
8 correct.

9 CHAIRPERSON RICHARD: Okay. Other questions?

10 BOARD MEMBER SCHENK: Yes.

11 CHAIRPERSON RICHARD: Ms. Schenk.

12 BOARD MEMBER SCHENK: Thank you.

13 Tom Umberg and I were involved years ago in the  
14 RFP for the first go round of this. And we had reached  
15 out to expertise in some of the other departments, General  
16 Services and Department of Finance, et cetera. And I had  
17 the conversation with Mr. Fellenz to make sure that as we  
18 are going forward that our staff reach out to the  
19 expertise that is available to us in other State agencies.

20 CHAIRPERSON RICHARD: Mr. Morales.

21 CHIEF EXECUTIVE OFFICER MORALES: Absolutely. We  
22 do currently work with Department of Finance, with all the  
23 State agencies, State Treasurer. We will continue to do  
24 that.

25 The types of concessions that we will be entering

1 into are pretty unique structures, so we do need extra  
2 advise. But we will certainly continue to draw on any and  
3 all resources within the state.

4 CHAIRPERSON RICHARD: Okay. If there are no  
5 other questions, I'll entertain a motion for this  
6 Resolution for Item 7.

7 VICE CHAIRPERSON HARTNETT: Move adoption.

8 VICE CHAIRPERSON RICHARDS: Second.

9 CHAIRPERSON RICHARD: It's been moved by Vice  
10 Chair Hartnett, seconded by Vice Chair Richard.

11 Secretary, please call the roll.

12 BOARD CLERK NEIBEL: Ms. Schenk?

13 BOARD MEMBER SCHENK: Yes.

14 BOARD CLERK NEIBEL: Vice Chair Richards?

15 VICE CHAIRPERSON RICHARDS: Yes.

16 BOARD CLERK NEIBEL: Vice Chair Hartnett?

17 VICE CHAIRPERSON HARTNETT: Yes.

18 BOARD CLERK NEIBEL: Ms. Perez-Estolano?

19 BOARD MEMBER PEREZ-ESTOLANO: Yes.

20 BOARD CLERK NEIBEL: Mr. Frank?

21 BOARD MEMBER FRANK: Yes.

22 BOARD CLERK NEIBEL: Ms. Selby?

23 BOARD MEMBER SELBY: Yes.

24 BOARD CLERK NEIBEL: Chair Richard?

25 CHAIRPERSON RICHARD: Yes.

1           Thank you. Okay. The last item is a very  
2 important one, which is the Memorandum of Understanding of  
3 the Agreement with the San Joaquin Valley Air Quality  
4 Management District. Mr. Morales.

5           CHIEF EXECUTIVE OFFICER MORALES: Mr. Chairman,  
6 this item came up in comment yesterday.

7           CHAIRPERSON RICHARD: Right.

8           CHIEF EXECUTIVE OFFICER MORALES: We heard some  
9 discussion. It's a very important piece of this moving  
10 forward to this program, and really we see benefits  
11 approved. An important part of our effort to make sure  
12 that we see benefits approved in California generally and  
13 specifically here in the valley.

14           We have reached agreement with the San Joaquin  
15 Valley Air Pollution Control District to implement a  
16 mitigation program that will provide near-term and ongoing  
17 benefits to this region in terms of cleaner air. And it's  
18 consistent with the way we've approached other agreements  
19 versus the preservation of agriculture lands in Merced and  
20 Madera where we're working through local agencies through  
21 other agencies to implement their programs for these  
22 benefits. We're working with the local agencies to  
23 reinvent the wheel, but also to provide benefits that have  
24 been deemed priorities by the local agencies.

25           So what that will translate to here in the valley

1 will be investments in clean technology, things like  
2 replacement of diesel irrigation pumps with electric  
3 pumps, old tractors and farm equipment with clean  
4 equipment. It's being done as part of our mitigation.  
5 But it's important to note that it's -- again, these are  
6 investments in the valley, in this community that will  
7 provide cleaner air in the near term. And even though  
8 it's part of the mitigation related to construction  
9 benefits, certainly will go on beyond that construction  
10 period. And we've worked to develop this with the Air  
11 Pollution Control District. We will be funding their  
12 priorities consistent with the mitigation needs identified  
13 in the EIR.

14 CHAIRPERSON RICHARD: Okay. I had one question  
15 on it, but I'm going to defer to my colleagues.

16 Mr. Frank.

17 BOARD MEMBER FRANK: I'm a strong supporter of  
18 this item. We've heard both yesterday in testimony, you  
19 Mr. Chair, mentioned it today, the profound air pollution  
20 and air quality challenges presented by the valley and  
21 this is a subject that I've been following for many years.

22 And point of fact, there are some seasons and for  
23 some conventional pollutants where the San Joaquin Valley  
24 is the absolute worst area in the nation, which is a very  
25 undistinguished distinction to have.



1           So I firmly believe that operational high speed  
2 rail will be part of the solution, not only here in the  
3 Central Valley, but across the State to improve air  
4 quality.

5           And I think we have a personal if not a legal  
6 obligation to make sure that during the construction phase  
7 we not make an already bad situation worse. So I think  
8 this is very welcome opportunity. And I want to thank our  
9 staff and thank the district and its staff for coming to  
10 this agreement, which I hope is part of a long-time  
11 cooperative and collaborative relationship as we go  
12 forward.

13           CHAIRPERSON RICHARD: Okay. Any other questions?

14           I just had one. Mr. Dayton yesterday, as he  
15 often does, raised a provocative point, which is the  
16 overall governance of this. So my question for Mr.  
17 Morales is -- it's late in the day. To put this simply,  
18 how do we make sure that doesn't turn into a slush fund  
19 that doesn't accomplish the purposes for which the money  
20 is being spent and in fact the dollars are tied to  
21 mitigation that Member Frank was just talking about? So  
22 what kind of governance and controls do we have on this?

23           CHIEF EXECUTIVE OFFICER MORALES: I'll let Jim  
24 Andrew speak to some of the particulars. But the  
25 implementation of this will be through a specific

1 agreement sited with the Air Pollution Control District  
2 that will lay out the criteria. We will have a specific  
3 agreement with the Air Pollution Control District to  
4 ensure we meet the requirement. We have an agreement with  
5 the Air Pollution Control District that identifies the  
6 types of expenditures that are eligible for this as well  
7 as tying it to the impacts as much as possible that were  
8 identified in the EIR so that, for instance, when they  
9 funded and provided by us replace diesel irrigation pumps,  
10 the intent is to have them in as close a proximity to the  
11 project as possible so that we see approximate benefits.

12 But, Jim, if you wanted to add anything

13 ASSISTANT CHIEF COUNSEL ANDREW: I think the  
14 comment yesterday talked about as a payment how are you  
15 going to deal with it by a payment. It is not a payment.  
16 You are being asked to authorize an up-to and no greater  
17 than value, which is to compensate the district for their  
18 actual cost of replacing the equipment to achieve the  
19 numerical offsets required to offset the emissions of the  
20 project and no more.

21 So it is a -- we have a series of very detailed  
22 and the first point drafted and will probably be signed  
23 within the next week to cover Construction Package 1A and  
24 1B 50-page agreement with very detailed controls to ensure  
25 that the district who is spending the money and track

1 actual cost for the replacement pumps and equipment  
2 purchased and we match that on an ongoing quarterly basis  
3 the emission actually being emitted. So there is very  
4 tight controls to ensure what, one, what are the actual  
5 costs only. And we're matching the reductions of being  
6 achieved to the emissions that are actually being emitted.

7 So from a fiscal perspective, they're very tight  
8 controls. And the district gets millions and millions of  
9 dollars and spends millions a month to try improve air  
10 quality in the Central Valley through grant programs and  
11 has a long track record of audits on how they do this.  
12 And we're just going to essentially slip into that  
13 existing stream all those audits that have been looked at  
14 by the State and funding agencies. So from a controls  
15 perspective, we're paying actual cost of what it actually  
16 costs to achieve the reduction.

17 CHAIRPERSON RICHARD: I appreciate that point.  
18 This is my last question on it. I don't want to beat it  
19 to death. But respecting the fact that the APCD knows  
20 what's going on here in the valley, hypothetical, if they  
21 say, oh, we're going to do something in Los Banos at the  
22 west end of the valley because wind blows west to east and  
23 that's going to mitigate the impacts and our technical  
24 experts say that doesn't really help us make sure that  
25 we're achieving the zero net impact, what happens if there

1 is some disagreement between our technical people and the  
2 APCD over the efficacy of a particular metric?

3 ASSISTANT CHIEF COUNSEL ANDREW: Well, because of  
4 the way the San Joaquin Valley is the bottom of the bowl  
5 and these are -- for criteria pollutants that cause ozone  
6 and particular matter in the air. It's a basin-wide  
7 issue. It's in those bounds that would be --

8 CHAIRPERSON RICHARD: If it's a VOC or nitrogen  
9 oxide in the basin somewhere, they're dealing with it,  
10 then we consider that good?

11 ASSISTANT CHIEF COUNSEL ANDREW: Right. And they  
12 are -- and they have been fabulously aggressive with us in  
13 a good way of protecting the air quality in the Central  
14 Valley. So I just want to go on record to thank them  
15 for -- I'm not sure thanking them is the right word. But  
16 acknowledging they take their job very, very seriously.  
17 And they have helped us improve on both of our  
18 environmental documents. And we look forward to  
19 continuing to rely on their technical expertise. They are  
20 the experts on this, and we really rely heavily on them.

21 CHAIRPERSON RICHARD: All right. Any other  
22 questions? If not, I'll entertain a motion.

23 VICE CHAIRPERSON RICHARDS: I was just wondering  
24 how -- maybe I missed it. What's the genesis of the \$35  
25 million number? How was that developed?

1 CHIEF EXECUTIVE OFFICER MORALES: Again, it's  
2 tied to mitigation in the EIR.

3 VICE CHAIRPERSON RICHARDS: It was just on the  
4 mitigation schedule in the EIR, what the estimated costs  
5 of that mitigation would be?

6 CHIEF EXECUTIVE OFFICER MORALES: Actually, based  
7 on the need to offset certain amounts of emissions and the  
8 structure and what it will cost in order to do that.

9 ASSISTANT CHIEF COUNSEL ANDREW: So this is for  
10 the entire San Joaquin Valley air basin. So it covers  
11 Merced-Fresno, Fresno-Bakersfield, and portions of San  
12 Jose-Merced and Sacramento-Merced and  
13 Bakersfield-Palmdale. It covers the whole air basin.

14 What we've done is an estimate of the emission.  
15 But all those components within the air basin, the  
16 emissions that will go out in the district has a dollar  
17 figure that it's sort of the target dollar figure. And  
18 historical actual cost has been lower than -- it's at  
19 \$9,000 a ton. So basically multiply the emissions times  
20 \$9,000 and got to a number a little bit under 35 million,  
21 and we just used the \$35 million number as a cap.

22 VICE CHAIRPERSON RICHARDS: Thank you.

23 CHAIRPERSON RICHARD: Other questions? Okay.  
24 Motion.

25 BOARD MEMBER SCHENK: So moved.

1 BOARD MEMBER FRANK: Second.

2 CHAIRPERSON RICHARD: Moved by Ms. Schenk,  
3 seconded by Mr. Frank.

4 And Secretary please call the roll.

5 BOARD CLERK NEIBEL: Ms. Schenk?

6 BOARD MEMBER SCHENK: Yes.

7 BOARD CLERK NEIBEL: Vice Chair Richards?

8 VICE CHAIRPERSON RICHARDS: Yes.

9 BOARD CLERK NEIBEL: Vice Chair Hartnett?

10 VICE CHAIRPERSON HARTNETT: Yes.

11 BOARD CLERK NEIBEL: Ms. Perez-Estolano?

12 BOARD MEMBER PEREZ-ESTOLANO: Yes.

13 BOARD CLERK NEIBEL: Mr. Frank?

14 BOARD MEMBER FRANK: Yes.

15 BOARD CLERK NEIBEL: Ms. Selby?

16 BOARD MEMBER SELBY: Yes.

17 BOARD CLERK NEIBEL: Chairman Richard?

18 CHAIRPERSON RICHARD: Yes. Completes our agenda.

19 VICE CHAIRPERSON HARTNETT: Mr. Chair, I did have  
20 one matter I wanted to bring up just as a disclosure item.  
21 Something that I've asked our general counsel, Mr.  
22 Fellenz, to do. I asked him just informally in my  
23 capacity as Vice Chair.

24 As you know, the statutory authority upon which  
25 they're appointed sets the term for the Chair of one year

1 without term limits. But it just has -- our terms are  
2 fiscal year basis, at least as it relates to the Chair.  
3 And we have Board adopted policies and procedures that are  
4 not a matter of law, but those things we've decided to  
5 adopt. And in our current Board policies and procedures,  
6 which were last updated in I think early 2012, it sets a  
7 term limit for the Chair, meaning in terms of two  
8 successive years.

9 And I asked the general counsel to suggest some  
10 language for us to change that policy so that we would not  
11 have a fixed term limit for the Chair, and Vice Chair are  
12 also similarly limited. So that we would also not have a  
13 fixed term limit. And asked that that be brought to the  
14 Board for its consideration before -- at a meeting that  
15 would -- next month because your term would expire as  
16 Chair on July 1st. And I thought the Board should have an  
17 opportunity to consider -- no matter what your thoughts  
18 may be on it -- the Board Chair the opportunity to  
19 consider that issue.

20 CHAIRPERSON RICHARD: Okay.

21 VICE CHAIRPERSON HARTNETT: I intentionally  
22 didn't bring it to you in advance. I thought I would  
23 surprise you with it.

24 CHAIRPERSON RICHARD: Mission accomplished.  
25 Okay. So just a request to the staff to bring a matter to

1 the Board for its consideration next month.

2 VICE CHAIRPERSON HARTNETT: Yes.

3 CHIEF EXECUTIVE OFFICER MORALES: Mr. Chairman,  
4 staff will certainly be happy to prepare that. We'll add  
5 in a clause that says should you be elected President,  
6 there will be a succession plan.

7 CHAIRPERSON RICHARD: That's great. Okay. Well,  
8 I think now it is time to adjourn the meeting. So thank  
9 my colleagues and the staff for -- I know it was a lot of  
10 logistical work to bring everybody to Fresno, but this was  
11 the right place to address these issues.

12 So with that, we will stand adjourned. Thank you  
13 all very much.

14 (Whereupon the High Speed Rail Authority Board  
15 meeting recessed at 12:42 p.m.)  
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CERTIFICATE OF REPORTER

I, TIFFANY C. KRAFT, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing hearing was reported in shorthand by me, Tiffany C. Kraft, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of May, 2014.

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TIFFANY C. KRAFT, CSR, RPR  
Certified Shorthand Reporter  
License No. 12277